Part 67
Medical Standards and Certification

This edition replaces the existing loose-leaf Part 67 and its changes.

This FAA publication of the basic Part 67, effective November 1, 1962, incorporates Amendments 67–1 through 67–14 with preambles.

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Subpart B—Certification Procedures

Part bearing the same number. To differentiate between the two, the recodified Parts, such as the ones in this subchapter, will be labeled "[New]". The label will of course be dropped at the completion of the project as all of the regulations will be new.

Subchapter D [New] was published as a notice of proposed rule making in the Federal Register on May 2, 1962 (27 F.R. 4175) and as Draft Release 62–20.

Some of the comments received recommended specific substantive changes to the regulations. Although some of the recommendations might, upon further study, appear to be meritorious, they cannot be adopted as a part of the recodification program. The purpose of the program is simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. To attempt substantive changes in the recodification of these regulations (other than minor, relaxatory ones that are completely noncontroversial) would delay the project and would be contrary to the ground rules specified for it in the Federal Register on November 15, 1961 (26 F.R. 10698) and Draft Release 62–20. However, all comments of this nature will be preserved and considered in any later substantive revision of the affected Parts.

Certain changes, not contained in Draft Release 62–20, reflect amendments, to the Parts revised herein, that became effective after the Draft Release was published. Each of these amendments, when published, contained a statement that they would be included in the final draft of the recodified Parts affected and, in addition, Draft Release 62–20, stated that such amendments would be included in the final draft of the revised subchapter. See amendments 20–15, 20–16, 20–17, 21–3, 22–13, 22–14, 24–4, and 24–5.

Draft Release 62–14, dated April 2, 1962, proposed certain amendments to provisions of Part 20 of the Civil Air Regulations under which former military pilots may obtain private and commercial pilot certificates on the basis of military competence. The period for receiving comments on the proposal having closed on June 7, 1962, and no adverse comments having been received thereon, these amendments are incorporated into § 61.31 of the revised subchapter.

Other minor changes of a technical clarifying nature or relaxatory nature have been made. They are not substantive and do not impose any burden on regulated persons. For example, the unnecessary provision, contained in CAR 21.23, that an airline transport pilot must present his pilot certificate for inspection by any person, has been deleted in the light of other existing requirements that such a pilot must present his certificate for inspection upon the request of the Administrator, an authorized representative of the CAB, any State or local law enforcement officer, or any passenger.

Draft Release 62–27 dated June 8, 1962 (27 F.R. 5686) contained a notice of the revision of the procedural rules of the Federal Aviation Agency. The preamble to the release stated that the certification procedural rules in Part 406 of the Regulations of the Administrator were being considered for transfer to the Parts to which they specifically applied, insofar as they did not duplicate provisions already in those Parts. For this reason, a new Subpart B, relating to procedures for medical certificates, has been added to Part 67 "Medical Standards and Certification" [New]. The subpart is a revision, without substantive changes, of medical certification provisions now in Part 406.

Of the comments received on Draft Release 62–20, several suggested changes in style, format, or technical wording. These comments have been carefully considered and, where consistent with the style, format, and terminology of the recodification project, were adopted.

The definitions, abbreviations, and rules of construction contained in Part 1 [New] of the Federal Aviation Regulations apply to the new Subchapter D.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. The Agency appreciates the cooperative spirit in which the public's comments were submitted.

In consideration of the foregoing Chapter I of Title 14 of the Code of Federal Regulations is amended, effective November 1, 1962, by deleting Parts 20, 21, 22, 24, 25, 26, 27, 29, 34, 35, §§ 43.40–

Adopted: February 11, 1965 **Effective: March 20, 1965**

(Published in 30 F.R. 2195 on February 18, 1965)

The purpose of these amendments is to prohibit cheating or certain other unauthorized conduct in connection with FAA written airman or ground instructor tests; fraudulent or intentionally false applications for airman, ground instructor, or medical certificates or ratings, or entries in logbooks, records, or reports required in connection with these certificates or ratings; and alteration, or fraudulent reproduction of these certificates or ratings. This action was proposed in Notice No. 64–20 (29 F.R. 4919) issued April 1, 1964. As proposed, it applies to not only the airman regulations but also the regulations covering medical certification and ground instructors.

A number of comments were received on Notice No. 64–20, most of them generally favorable to the proposed amendments. Three comments opposed as too harsh the provision that the commission of a prohibited act is a basis for suspending or revoking an existing certificate or rating held by the violator. A major purpose for this provision is the deterrent effect of the enunciation of a strong available penalty. Thus, the provision is especially significant with respect to a person who assists another in the violation, for example by taking a test for him. In such a case, it is no deterrent to the former (who usually is obtained because he already holds the certificate the latter is seeking) merely to warn him that the principal penalty for taking a test in behalf of another person is that he will not be eligible, for a year thereafter, for any airman, ground instructor, or medical certificate or rating, as the case may be. The most effective deterrent in this situation would be the possibility of loss of one or all of the certificates he already possesses.

The one-year ineligibility for a certificate or rating is automatic in the case of cheating or other unauthorized conduct in connection with written tests. However, as indicated by Notice No. 64–20, the fact that suspension and revocation of certificates or ratings are made available in these regulations does not mean they must be imposed in every case or automatically upon every violator. The same degree of discretion and the same criteria for the imposition of these sanctions will be exercised by the Agency officials responsible for taking enforcement action in this area as in all other areas where penalties are provided for violation of regulations. Furthermore, the sanctions made available by these amendments do not preclude the imposition, in case of violation, of civil penalties under Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471), either alone or in conjunction with these sanctions.

Comments also were received urging that acts to be prohibited by these amendments should be done "knowingly," or "willfully," or "knowingly or willfully," to incur the sanctions provided. It of course is not the design of these amendments to prohibit acts that might likely be committed inadvertently. Accordingly, these amendments make clear that intention is an element of those prohibited acts that otherwise might likely be committed inadvertently, namely, the removal of a written test, or a false statement on an application for a certificate or rating or in a logbook, record, or required report. Also, responsive to several comments and reflecting the original intention as to reproductions of certificates or ratings, the prohibition has been restated to refer to reproduction for fraudulent purpose. Furthermore, the reference in Notice No. 64–20 to authorization by the Administrator in this connection has been dropped in these amendments, since only fraudulent reproductions are prohibited, and since new documents are issued where appropriate, thus obviating any need for authorizing alterations.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 67 of the Federal Aviation Regulations is amended, effective March 20, 1965, as follows.

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*Includes Part 61—Certification: Pilots and Flight Instructors [New]; Part 63—Certification: Flight Crewmembers Other Than Pilots [New]; Part 65—Airmen Other Than Flight Crewmembers [New]; Part 67—Medical Standards and Certification [New].

(Published in 30 F.R. 12025, September 21, 1965)

The purpose of these amendments is to make clear that the Federal Air Surgeon has authority (1) to decide whether a special medical flight or practical test, or special medical evaluation, should be conducted or the applicant's operational experience considered under § 67.19 of Part 67 of the Federal Aviation Regulations, and, if so, (2) to prescribe which of these procedures should be used, in the determination of whether a medical certificate should be issued to an applicant who does not meet the applicable medical standards of that Part. This action was proposed in Notice 65–10 (30 F.R. 6188) issued April 23, 1965.

Ten comments were received on Notice 65–10. Six were favorable and three unfavorable to the proposed amendments, and one was nonresponsive. Two of the unfavorable comments expressed concern that the amended rule would vest too much increased authority in the Federal Air Surgeon. The language contained in the proposal merely clarified the provisions of the existing rules and did not vest any increased authority in the Federal Air Surgeon. In this connection, one of these comments also asserted there would be nothing to ensure equal treatment of all applicants with the same defect. It should be noted that the objective of § 67.19 is to provide for the issue of a medical certificate to an applicant who does not meet the medical standards as prescribed in Part 67. In order to achieve that objective in the consideration of the various types of medical deficiencies involved, the Federal Air Surgeon must be given the discretion to conduct the type of test or other procedure that he believes appropriate to determine whether the applicant can properly perform his duties as an airman.

One of these two comments on the proposal further suggested that any rule finally adopted should provide that if the medical defect is static the applicant should be entitled to an opportunity to take a special medical flight test. If adopted, this not only would make mandatory resort to a special procedure in one type of situation, but it also would prescribe the particular special procedure to be used. As stated in the preamble of Notice 65–10, situations arise in which the Federal Air Surgeon may determine that the applicant could not satisfactorily show, by any of the available special procedures, ability to perform the duties of an airman certificate without endangering safety in air commerce. In such a case, the resort to any of these procedures would not be purposeful, and the Federal Air Surgeon should have authority under § 67.19 to refuse their use. Also as stated in that preamble, where the Federal Air Surgeon does prescribe special medical flight or practical testing or special medical evaluation under § 67.19, the selection of the particular procedure to be used, of those named, essentially is an element of his medical determination whether the applicant can properly perform his duties as an airman despite his physical deficiency. This selection should repose in the Federal Air Surgeon because of his special qualifications and facilities available to him to obtain and assess medical information about an applicant's total medical status. Accordingly, it would defeat the objective of § 67.19 to provide for automatic entitlement to a designated procedure in any particular type of situation.

One of the favorable comments would make mandatory the consideration by the Federal Air Surgeon of an applicant's operational experience under § 67.19. Conversely, another comment expressed the belief that the applicant's operational experience is not germane to the evaluation of an airman's physical qualifications to hold a medical certificate. The medical requirements of the former Part 29 of the CARs were amended, many years ago, to permit an evaluation of the applicant's aeronautical experience regardless of the type of airman certificate or rating sought or held by the applicant. The Agency has pursued this policy as applied by the Federal Air Surgeon, and the last sentence of § 67.19(a)(1) of the proposal expressed the intent of the Agency to continue this policy. To limit the descretionary authority of the Federal Air Surgeon in those cases by prohibiting any consideration by him of the applicant's operational experience, or making such consideration mandatory in all cases, regardless of the type of deficiency involved, would like the adoption of the suggestion on static defects, also defeat the objective of § 67.19.

Interested persons have been afforded an opportunity to participate in the making of these amendments to § 67.19, and due consideration has been given to all matter presented.

These amendments are made under the authority of sections 313(a), 314, 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, 1421, 1422).

Amendment 67–3

Distant Visual Acuity: First- and Second-Class Medical Certificates

Adopted: November 16, 1965 **Effective: November 23, 1965**

(Published in 30 F.R. 14562, November 23, 1965)

The purpose of these amendments is to change the distant visual acuity requirement for an applicant for a first- or second-class medical certificate from at least 20/50 to 20/100 in each eye separately before correction. This action was proposed in Notice 65–22 (30 F.R. 11732) issued September 7, 1965. All comments received on the proposal were favorable.

The present standard in §§ 67.13(b)(1) and 67.15(b)(1) of Part 67 of the Federal Aviation Regulations requires an applicant for a first- or second-class medical certificate, respectively, to have distant visual acuity of at least 20/50 in each eye separately, before correction to 20/20 or better with corrective glasses. As stated in the preamble of Notice 65–22, this standard has been in effect unchanged since 1938, despite later significant technological advances in design and performances of aircraft, and in the environment in which they are operated. Also, as stated in that preamble, appliants with uncorrected distant visual acuity less than specified in the present standard, except those with gross myopic conditions, generally have been allowed to show under § 67.19 whether they have been able to operate aircraft without endangering safety in air commerce despite the disqualification. If they have not had other major disturbances in visual functions, they almost invariably have been able to demonstrate favorably, and they have received special issue of medical certificates on an individual basis. This process has required special detailed evaluations of all aspects of their vision, and has been expensive to applicants, both in money expended for ophthalmological examinations, and in issuance delay time, and it also has entailed considerable time and effort on the part of the Agency.

Accordingly, the accompanying amendments accommodate the distant visual acuity standard for first- and second-class medical certificates to current conditions, and dispense with special testing that in the great majority of cases would result in the special issue of a certificate anyway, without adverse effect upon safety.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

Since these amendments are relaxatory in nature and impose no burden upon any person, good cause exists for making them effective on less than 30 days published notice.

In consideration of the foregoing, Part 67 of the Federal Aviation Regulations is amended, effective November 23, 1965, as follows.

These amendments are made under the authority of section 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, and 1422).

Aviation Regulations, relating to special issuance of a medical certificate, so far as those limitations relate to air traffic tower operators.

Medical certification is now required of all airmen who perform their duties aloft, such as pilots, navigators and flight engineers. Only one class of airmen that perform duties on the ground are required to hold medical certificates—air traffic controllers. Air traffic controllers must hold a second class medical certificate, the same as required of commercial pilots. Private and student pilots, for example, hold only need a third class medical certificate.

Obviously there are great differences in the ground and flight environments in which these different airmen function. A pilot often is alone in the air and must at all times possess not only the technical, but also the physical capacity to act. Even in multi-engine aircraft, where crewmembers perform more specialized duties, the sudden physical incapacity of one can affect the overall crew operation to the extent that aircraft safety is seriously endangered. In general, the air traffic controller is under close supervision with back-up personnel close at hand, capable of performing his functions in the event he is physically disabled. Physical disabilities that may be under the applicable medical standards of Part 67 disqualifying to a flight airman may be tolerated under controlled conditions, in a ground based airman. With these considerations in mind, and with the initiation of the new medical program described below, it is now possible for the Agency to establish a system for issuing waivers, under those controlled conditions, for certain physical defects in ground airmen.

The Federal Aviation Agency has estblished a health program for applicants and holders of FAA air traffic control specialist field facility positions oriented to the particular job and functional requirements of an air traffic control operator. The program includes the use of diagnostic techniques not required for a second class medical examination under this Part, and provides for professional referrals, consultations, and follow-up examinations as necessary. The program provides that full regard shall be given to the practical requirements of the position. If the employee can be utilized with safety, apparently disqualifying defects or diseases may be waived.

Paragraph 67.19(d) removes from the scope of a special issuance of a medical certificate certain disorders and diseases that are disqualifying without further consideration. In view of the thorough annual examination being required of each FAA air traffic control specialist by the Agency described above, and an evaluation of the physical standards required for air traffic control positions occupied by FAA employees, the Federal Air Surgeon is in a position to determine whether an employee's disease or defect would disqualify him for the position the employee applies for or holds. The comprehensive health program and a more flexible standard for physical disqualification will permit the Agency to utilize trained and experienced employees with no derogation of safety.

There are additionally a group of control tower operators, employed in military or privately operated control towers, who may benefit from the special issuance of medical certificates provided by this amendment. In view of the small number of persons involved, the Federal Air Surgeon can review the special issuance of these control tower operator medical certificates without an undue burden added.

Since this amendment is procedural in nature and results in providing all certificated air traffic control tower operators an additional benefit, notice and public procedure thereon are not required and this amendment may be made effective in less than 30 days after publication.

In consideration of the foregoing, and effective March 31, 1966, section 67.19(d) is amended o read as follows:

This amendment is made under the authority of Sections 307, 313(a) and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354, 1422).

authorization for certain representatives of the Federal Air Surgeon within the Agency (the Chief, Aeromedical Certification Branch, Civil Aeromedical Institute, and Regional Flight Surgeons) to finally reconsider issuances and denials of medical certificates by aviation medical examiners, in certain situations; (2) to provide that a denial by such a representative in any of those situations is considered to be a denial by the Administrator for the purpose of review by the Civil Aeronautics Board; (3) to require the surrender, upon request, of a medical certificate whose issue is reversed, wholly or in part, upon reconsideration by the Federal Air Surgeon or such a representative; and (4) to state in the regulations that if an applicant for, or holder of, a medical certificate refuses to furnish additional medical information the Administrator may suspend, modify, or revoke a certificate, or refuse to issue it. Except for the scope of the first and second items mentioned, that is now made narrower than originally contemplated, these amendments were proposed in Notice 65–41 issued December 16, 1965 (30 F.R. 16084), for which the comment period was extended to March 23, 1966 by Notice 65–41A issued February 2, 1966 (31 F.R. 1312).

A number of the comments received on Notice 65–41 concurred in the proposals made. One of these comments (as well as several others that did not concur) displayed apprehension that delegation of authority to representatives of the Federal Air Surgeon to "finally reconsider" actions of aviation medical examiners would eliminate an applicant's recourse to petition for exemption from the rules. This apprehension is not well grounded, for Notice 65–41 is not concerned with the exemption procedure in any respect, either explicitly or implicitly. Both the Notice and these amendments are concerned only with the administration of the rules in Part 67, not with the grant or denial of exemptions issued in accordance with rules specifically provided in the rule-making procedures of Part 11.

Some comments presented strong objections to the proposed delegation of authority to representatives of the Federal Air Surgeon within the Agency. One comment concurred in the proposal so far as it would apply to cases where the Federal Air Surgeon does not have authority in any event to consider special issue of medical certificates (cases excluded from (§ 67.19). It was asserted that the proposed amendments would improperly tend to shift the Federal Air Surgeon's authority to make important decisions in the medical certification area to Regional Flight Surgeons; abrogate the denial authority of the Federal Air Surgeon; and result in a lack of uniformity in the application of medical standards. The first and second assertions display needless apprehension, since the proposals would not affect the general policy making responsibility of the Federal Air Surgeon, and the delegation to his representatives would not deprive him of his own authority in the area.

The assertion that a lack of uniformity might result, in the application of medical standards in the certification process, has pointed out an item susceptible of controversy, with strong arguments on each side. As stated in Notice 65–41, the proposal was in keeping with the Agency's policy of decentralization, and would foster a lessening of the delays incident to geographic distances and needless duplication of activity. However, it is recognized that the assertion may have merit, in this highly specialized field of medicine where various individuals may conceivably have different interpretations of a given set of medical facts.

After careful consideration of all issues involved, the Agency has concluded that, in view of this argument against the proposed change, it is doubtful that the action would preserve the maintenance of uniformity in the application of medical standards, and its adoption in full is inappropriate at this time. Therefore, the Agency has dropped this proposed change so far as it pertains to cases in which the Federal Air Surgeon has authority under Part 67 to override a denial of a medical certificate. However, in certain areas listed in § 67.19(d), the regulations do not allow the Federal Air Surgeon to issue medical certificates specially to applicants with established inability to meet the applicable medical standards. In these areas the Federal Air Surgeon has no alternative but to confirm the denial action of his representatives, although he of course provides guide-lines to aviation medical examiners for the application of the medical standards in all cases. The areas involve established medical history or clinical diagnosis of: (1) myocardial infarction, or angina pectoris or other evidence of coronary heart disease that the Federal Air Surgeon finds may reasonably be expected to lead to myocardial infarction; (2) a character or behavior disorder that is severe enough to have repeatedly manifested itself by overt acts, a psychotic

the Administrator may later delegate full authority to his representative at the Aeromedical Certification Branch, Oklahoma City, to finally reconsider all issuances and denials of medical certificates by aviation medical examiners.

It should be noted, in connection with this limited delegation of authority, that the Federal Air Surgeon and his representatives within the Agency not only retain authority to finally reconsider denials of medical certificates except in the situations listed above, but also have authority upon their own initiative to reconsider issuances of medical certificates by aviation medical examiners. In this manner, cases involving novel or important features may be inquired into by the highest medical authority of the Agency, even where certificates have been issued, as contemplated by subsection 314(b) of the Federal Aviation Act of 1958.

One comment asserted that any attempt by the Agency to reverse the issue of a medical certificate by an aviation medical examiner, without compliance with section 609 of the Federal Aviation Act of 1958, would be invalid, as well undesirable. Several other comments also pointed out that the burden of proof is the Administrator's under section 609, whereas this burden is the applicant's under section 602 of the Act. Sub-section 314(b) of the Act empowers the Administrator to ''reconsider'' either the denial or issuance of a medical certificate by an aviation medical examiner. It is the Agency's position that when the Administrator exercises that power to correct an error committed by a private person in the exercise of delegated authority (where the aviation medical examiner should have taken a different course of action based upon the information available to him when he issued the medical certificate) the airman must rely upon his rights under section 602 of the Act if he is dissatisfied. In such a case, a ''reexamination'' under section 609 of the Act is not necessary. The position of the Agency is clarified in these amendments by adding a provision in § 67.25(b) that any action taken by the Federal Air Surgeon or his authorized representative within the Agency under subsection 314(b) of the Act that reverses, wholly or in part, the issue of a medical certificate by an aviation medical examiner is the denial of a certificate by the Administrator under section 602 of the Act.

The proposal to require surrender, upon request, of a medical certificate whose issue is reversed or otherwise changed, upon reconsideration, was generally supported by the comments received. Two comments expressed concern that this would permit arbitrary deprival of a certificate legally issue. However, as stated in Notice 65–41, the obligation is imposed with respect to a certificate that has been found to have been issued to an applicant who in fact does not meet the applicable standards, and the Agency considers this a reasonable requirement in order to protect against the use of the certificate.

In each of these reconsideration provisions, the action taken by the Federal Air Surgeon or his representative within the Agency is described as one to ''wholly or partly reverse'' the issue of the medical certificate. This language is used in order to make clear that the provisions concern action taken that is adverse to the applicant. It would be clearly unreasonable to provide that action taken upon reconsideration that is advantageous to the applicant is the denial of a medical certificate.

Most of the comments received were not opposed to the proposal to require the applicant or certificate holder to furnish additional medical information. Some comments asserted this authority could be exercised improperly to delve into irrelevant matters. However, as is plain from the provision, the purpose is to obtain additional medical information needed to determine whether an applicant is eligible to hold a medical certificate.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and for the reasons stated in Notice 65–41, Part 67 of the Federal Aviation Regulations is amended effective July 16, 1966.

These amendments are made under the authority of sections 303(d), 313(a), 314(b), 601, 602, and 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354, 1355(b), 1421, 1422, 1429).

the guidance of the public the officials making the determinations required under § 67.19 for the issue of a medical certificate to an applicant who does not meet the applicable medical standards.

Section 67.19 provides for the issue of a medical certificate of the appropriate class to an applicant who does not meet the medical standards of Part 67 (other than certain specified requirements). Under the provisions of that section the Federal Air Surgeon determines whether special medical testing or evaluation should be conducted to issue a medical certificate with appropriate limitations to an applicant. This amendment shows that the Chief, Aeromedical Certification Branch, Civil Aeromedical Institute, and Regional Flight Surgeons will now have the same authority.

Since this amendment is procedural in nature, notice and public procedure thereon are not required and it may be made effective in less than 30 days after publication.

In consideration of the foregoing, § 67.19 of the Federal Aviation Regulations is amended, effective June 22, 1968, by inserting a new paragraph (e).

This amendment is made under the authority of sections 303(d), 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354, 1421, 1422).

Amendment 67–7

Reconsideration of Certification Actions

Adopted: January 2, 1969 **Effective: February 8, 1969**

(Published in 34 F.R. 248, January 8, 1969)

The purpose of this amendment to Part 67 of the Federal Aviation Regulations is to provide that certain FAA officials may on their own initiative reverse the issuance of a medical certificate by an aviation medical examiner, within 60 days after receiving additional medical information establishing the noneligibility of the holder of that certificate, when that information was requested within 60 days of issuance.

This amendment was proposed in Notice 68–14, and published in the Federal Register on July 10, 1968 (38 F.R. 9005).

Four public comments were received on the Notice, three of which concurred in the proposal or offered no objections. One comment objected to the proposal, asserting that it would be unfair to keep the airman in a state of suspense for any longer period of time because of FAA "inefficiencies". However, this comment failed to recognize that in many cases the need for more time stems from delays of the airman in providing needed medical information to establish his eligibility or noneligibility for a medical certificate. As stated in the Notice, § 67.25(b), as amended by Amendment 67–5, effective July 16, 1966, contains a 60-day time limitation within which FAA officials may reconsider and reverse the issuance of a medical certificate by an aviation medical examiner. However, although the reconsideration may indicate the need for additional medical information to determine whether an error was made by an aviation medical examiner, the authority of the FAA official to fully reconsider the case and reverse the issuance of the certificate, if necessary, could be effectively defeated by the failure (or delay) of the holder of the medical certificate to respond to the request for additional medical information within 60 days from the date the certificate was issued. This could allow operation of aircraft by airmen whose physical qualifications have not been fully determined, and, if necessary, require resort to action under section 609 of the Federal Aviation Act to prevent the airman from further operation of an aircraft until a determination can be made that he can do so safely.

Since the term "medical information" as used in § 67.31—Medical Records (under which information is requested) includes the results of "medical testing", the latter term is not used in the amended rule

Amendment 67–8

Changes in References to FAA Regulations, Position Title, and Certain Addresses

Adopted: August 27, 1970 **Effective: September 4, 1970**

(Published in 35 F.R. 14074, September 4, 1970)

The purpose of these amendments to Parts 61, 63, 65, 67, 141, and 143 of the Federal Aviation Regulations is to reflect in Parts 65 and 141 appropriate references to Part 430 of the Regulations of the National Transportation Safety Board; reflect in Part 67 an organizational change in the title of the FAA Assistant Administrator to FAA Regional Director; and update several references in the Regulations to the addresses to which applications for replacement of lost or destroyed certificates and certain other communications with the FAA are sent. These amendments also correct an inadvertent error made in a recent amendment to Part 65.

On April 1, 1967, the aviation safety functions of the Civil Aeronautics Board under Titles VI and VII of the Federal Aviation Act of 1958 were transferred to the National Transportation Safety Board (49 U.S.C. 1651 et seq.). Thereafter the Board issued Part 430 of its Regulations pertaining to aircraft accidents, incidents, overdue aircraft, and safety investigations, effective November 10, 1969 (34 F.R. 15749). These amendments accordingly change the references in Parts 65 and 141 to Part 430 of the Regulations of the National Transportation Safety Board instead of to Part 320 of the Regulations of the Civil Aeronautics Board.

The organizational title of FAA Assistant Administrator has been changed to FAA Regional Director, and this change is reflected in the amendments to Part 67.

The addition of "Department of Transportation" and box numbers and zip codes to addresses found in Parts 61, 63, 65, 67, and 143 serve to clarify and modernize mailing addresses to which applications for lost or destroyed certificates and certain other communications with the FAA are sent.

In Notice 70–12 (35 F.R. 4862) it was proposed that an air traffic control operator should not be authorized to issue air traffic control clearances for IFR flight without authorization from the appropriate air route traffic control center. In issuing Amendment 65–15 pursuant thereto (35 F.R. 12326) it was stated that a tower may be under the jurisdiction of some facility other than an air route traffic control center, and that therefore the general phrase of reference "facility exercising IFR control" would be used. However, in the amended § 65.45(b) the phrase "air traffic control" was inadvertently used instead of "IFR control." These amendments correct that inadvertence by replacing "air traffic control" with "IFR control."

Notice and public procedure hereon are not required since these amendments merely reflect changes of law and procedures as well as the correction of an inadvertent clerical error, and they may therefore be made effective in less than 30 days.

In consideration of the foregoing, Parts 61, 63, 65, 67, 141 and 143 of the Federal Aviation Regulations are amended, effective September 4, 1970.

(Sections 313(a), 602, 608 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1422, 1428. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Note: Corrections to position title in Section 67.23(a) and (b) are incorporated in the original printing of this basic volume.

certificate, to conform with current usage in the medical profession: and (2) to separate what have been termed ''nervous system'' conditions into mental and neurologic disorders as two distinct groups of disqualifying conditions.

Interested persons have been afforded an opportunity to particpate in the making of these amendments by a notice of proposed rule making (Notice 71–30) issued on September 28, 1971, and published in the Federal Register on October 5, 1971 (36 F.R. 19396). Due consideration has been given to all comments presented in response to that Notice.

Two public comments were received in response to the Notice. Each was from an aviation trade association, and each concurred in the proposed amendments.

As stated in the Notice, a disparity has existed between the terminology used in the standards involving mental disorders and currently accepted psychiatric terminology. As a result, difficulty has existed in applying the latter terminology to these mental disabilities although the basic definitions have remained essentially unchanged. To avoid the recurrence of these difficulties, particularly in enforcement actions, and to update the regulations, these amendments revise the terminology describing the mental requirements, as proposed in the Notice, to conform with the terminology generally used by specialists in that branch of medicine as contained in the Manual published by the American Psychiatric Association, ''Diagnostic and Statistical Manual of Mental Disorders (second edition 1968).'' It is intended that use of that terminology will reduce confusion and ambiguity in the use and application of psychiatric terms by enumerating and defining disqualifying mental disorders in conformity with the terminology used in the current practice of psychiatry.

The proposed changes were reviewed and approved by a committee of the American Psychiatric Association, and that committee indicated that the changes may be considered essentially semantic.

Additionally, as proposed, these amendments separate ''mental condition'' and ''neurologic condition'' under the appropriate sections of Part 67 to clarify the applicable standards, as well as to recognize a division in professional specialization in disorders of a mental or neurologic nature. It is anticipated that this separation will also facilitate the gathering and analysis of statistical information relating to airman applicants who have been issued or denied medical certificates where mental or neurologic histories or conditions are concerned. As the neurologic terminology previously used in acceptable, no change is made in the enumerattion of disqualifying neurologic disorders.

In consideration of the foregoing, Part 67 of the Federal Aviation Regulations is amended, effective April 26, 1972.

(Sections 313(a), 601, and 602 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1422. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 67–10

Visual Acuity Requirements for Medical Certificates; Use of Contact Lenses

Adopted: October 12, 1976 **Effective: December 21, 1976**

(Published in 41 F.R. 46432, October 21, 1976)

The purpose of this amendment to Part 67 of the Federal Aviation Regulations is to permit the use of contact lenses (as well as eye glasses) to satisfy the distant visual acuity requirement of Part 67.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a Notice of Proposed Rulemaking (Notice No. 75–33) issued on September 2, 1975, and published

protective equipment.

The FAA has recognized the increasing popularity and use of contact lenses in the United States, and certain advantages of these lenses over spectacles. While the medical standards of Part 67 of the Federal Aviation Regulations specifically provide that acceptable vision correction shall be achieved through the use of glasses, Statements of Demonstrated Ability (special issuances) have been issued to applicants pursuant to § 67.19 of the Federal Aviation Regulations, permitting the use of contact lenses to correct distant visual acuity. Contact lenses that correct near visual acuity have not been considered acceptable for aviation duties. To date, these special issuances have been granted only upon submission of detailed reports by eye specialists and after review of these reports by FAA medical personnel. This administrative procedure has frequently delayed the initial medical certification of applicants who wish to wear contact lenses to meet distant visual acuity standards.

As pointed out in Notice 75–33, FAA experience indicates that, these evaluation reports have had limited value in uncovering significant pathology or evidence of complications that would contraindicate the use of contact lenses in the performance of aviation duties. In addition, the agency is unaware of any accidents or incidents in which the use of contact lenses by airmen was a contributing factor.

One hundred thirty-seven comments were received in response to this proposal. Most of the comments received were favorable, five expressed no opinion, and one opposed the proposed amendment. The comment in opposition to the proposal stated that the possibility of dislodgement of lenses might adversely affect safety.

Several commentators suggested that contact lens wearers be required to carry "backup" glasses to replae their contact lenses in the event the lenses are dislodged during operation of an aircraft.

In developing Notice No. 75–33 the FAA considered requiring contact lens wearers to carry an extra pair of contact lenses or glasses while performing airman duties. The FAA concluded, however, that the likelihood of losing one or both lenses during flight was not of sufficient magnitude to warrant such a requirement. Moreover, it was noted that should an individual lose one lens and attempt to improve vision with "backup" glasses, he would most likely have to remove the remaining lens and that under any circumstances, corneal molding from the lens would not permit full interchange of lenses and glasses. Furthermore, if a lens was lost during a critical phase of flight, there would be no opportunity to replace the lens with a "backup" contact lens and the airman might be better off under those circumstances with only one lens in place.

The FAA has determined that the question of whether the airman should routinely carry a spare set of lenses (contact lenses or glasses), may be left to the individual without adversely affecting aviation safety. It should be noted that present regulations do not require "backup" glasses when glasses are needed to meet the visual acuity standards, even though glasses may be misplaced or dropped, just as with contact lenses. There has been no indication that the absence of such a requirement has in any way compromised safety.

Additionally, several commentators stated that effects of corneal molding from wearing contact lenses may create difficulties in assessing an applicant's uncorrected distant visual acuity at the time of examination. The commentators pointed out that such circumstances could interfere with the appropriate application of existing visual acuity standards that require applicants for first- and second-class medical certificates to have distant visual acuity of at least 20/100 in each eye separately, without correction.

The FAA believes that this potential problem does not require regulatory action at this time. Designated Aviation Medical Examiners will be provided guidelines for the evaluation and testing of applicants who wear contact lenses.

An applicant whose uncorrected visual actuity is substantially affected by recent use of contact lenses will be advised not to wear the lenses for a period of time and then will be re-examined.

Amendment 67–11

Special Issuance of Airman Medical Certificates and Revision of Cardiovascular and Alcoholism Standards

Adopted: February 8, 1982 **Effective: May 17, 1982**

(Published in 47 FR 16298, April 15, 1982)

SUMMARY: This amendment revises the special discretionary procedures for issuing airman medical certificates to persons who do not qualify for certification under §§ 67.13, 67.15, or 67.17 of the Federal Aviation Regulations. These procedures will now be available to individuals with certain medical conditions who previously had to seek a formal exemption from the regulations. It makes available a simpler administrative procedure that is expected to reduce the time applicants must wait for a decision. The revised rule also emphasizes that in making medical certification decisions for these individuals the FAA considers the right of the private pilot to accept greater risk to self than the commercial or airline transport pilot may accept, as long as safety for others in air commerce is not endangered.

In compliance with Executive Order 12291, Federal Regulation, the FAA intends to conduct a complete review of the FAA's medical standards. In the interim, this amendment also clarifies the medical standards in §§ 67.13, 67.15, and 67.17 for applicants with a medical history or clinical diagnosis of heart disease. Although the pending review of all the medical standards in Part 67 could result in significant changes to that Part, this interim clarification is needed to eliminate confusion about the standards that has resulted in quasijudicial decisions directing the certification of individuals who are subject to the incapacitating health effects of heart disease. These decisions have required issuance of certificates without the monitoring which is needed to assess risk to the safe operation of aircraft and to other persons in the air and on the ground. Individuals who are disqualified under these standards may be certificated, where appropriate, through the discretionary special issuance procedures by which adequate monitoring and other appropriate limitations may be imposed.

The amendment also revises the standard for the certification of individuals with a medical history or clinical diagnosis of alcoholism, to qualify individuals who provide evidence of adquately restored health. This relief has previously been granted only through the formal exemption process.

FOR FURTHER INFORMATION CONTACT: William H. Hark, M.D., Aeromedical Standards Division, Office of Aviation Medicine, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, DC. 20591. Telephone (202) 426–3802.

SUPPLEMENTARY INFORMATION:

On December 1, 1980, the FAA issued Notice of Proposed Rulemaking No. 80–24 (45 FR 80296; December 4, 1980), proposing to articulate in Part 67 the exemption procedures for issuing airman medical certificates to persons who do not qualify for certification under the medical standards in §§ 67.13, 67.15, or 67.17. Notice 80–24 also proposed to revise the medical standard for applicants with a medical history or clinical diagnosis of heart disease. A public hearing on this Notice was held on February 3 and 4, 1981. All interested persons have been given an opportunity to participate in the making of the proposed regulations, and due consideration has been given to all matters presented.

Summary

After consideration of all the comments received in response to Notice 80–24 and presented at the public hearing, the FAA has taken the following actions in adopting this final rule:

1. In accordance with Executive Order 12291, Federal Regulation, the FAA has decided that it should undertake an overall review of the medical standards in Part 67 of the Federal Aviation Regulations.

final rule revises § 67.25 to increase the instances in which the denial of a certificate by an official other than the Federal Air Surgeon may be considered the final decision by the Administrator that is necessary before the applicant can appeal to the NTSB. (This will not, however, preclude a request for further consideration by the Federal Air Surgeon, in consultation with appropriate medical specialists, should the applicant so desire.)

4. To make it possible for certain airmen to perform activities that can be safely performed with their specific physical capabilities and overall medical condition, this final rule delegates authority to place functional limitations on medical certificates issued under § 67.19 to the Federal Air Surgeon, in coordination with the Director of Flight Operations. The rule limits their use to second- and third-class medical certificates, without prejudicing those individuals already holding first-class certificates with functional limitations.

5. To state clearly the FAA's policy, § 67.19 is being amended to state that, in granting discretionary special issuances to applicants for private pilot certificates, the Federal Air Surgeon considers the freedom of these applicants to accept reasonable risks to their person and property that are not acceptable in the exercise of commercial or airline transport privileges, and, at the same time, considers the need to protect the public safety of persons and property in other aircraft and on the ground.

6. To eliminate confusion over the meaning of the cardiovascular standards in §§ 67.13(e)(1), 67.15(e)(1), and 67.17(e)(1) and thus avoid the possibility of unrestricted certification of individuals who do not meet those standards, the FAA is adopting an interim clarification of those provisions. Notwithstanding their clarification at this time, the cardiovascular standards, along with all other medical standards, will be made the subject of the overall review of Part 67.

7. To ensure that the alcoholism standard in Part 67 clearly conforms to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the applicable provisions are being revised. The standard itself will not provide for certification of individuals who submit clinical evidence of recovery, including, among other things, a 2-year period of sustained abstinence. This will provide relief in the certification standard itself to many individuals who in the past could seek certification only through the exemption process.

Background

Medical Certification of Airmen

Part 67 of the Federal Aviation Regulations (14 CFR Part 67) provides for the issuance of three classes of medical certificates. A first-class medical certificate is required to exercise the privileges of an airline transport pilot certificate. Second- and third-class medical certificates are needed for commercial and private pilot certificates, respectively.

An applicant who is found to meet the appropriate medical standards, based on a medical examination and an evaluation of the applicant's history and condition, is entitled to a medical certificate without restrictions or limitations other than the prescribed limits as to its duration. These medical standards are set forth in §§ 67.13, 67.15, and 67.17 (14 CFR §§ 67.13, 67.15, and 67.17).

An applicant for a medical certificate who is unable to meet the standards in §§ 67.13, 67.15, or 67.17 may nevertheless be issued an appropriate medical certificate under one of two procedures. These procedures have always been available, and, thus, these standards have never been "absolutely disqualifying," in the sense that certification was permanently denied all who did not meet the standards.

Under § 67.19, "Special issue: operational limitations," at the discretion of the Federal Air Surgeon, acting on behalf of the Administrator under § 67.25, a special flight test, practical test, or medical evaluation may be conducted to determine that, notwithstanding the applicant's failure to meet the applicable medical standard, airman duties can be performed, with appropriate limitations or conditions, without endangering

infarction; or (9) diabetes mellitus that requires insulin or another hypoglycemic drug for control. (The one exception to this policy has been for air traffic control tower operators.)

The second procedure open to an applicant denied certification under §§ 67.13, 67.15, or 67.17 (and the only one previously available to those with conditions excluded from § 67.19) has been to petition for a formal exemption from the specific medical standard he or she had failed to meet, in accordance with § 11.25, "Petitions for rulemaking and exemptions" (14 CFR 11.25). If the relief requested was in the public interest and provided a level of safety equivalent to that provided by the standard, an exemption was issued authorizing an appropriate medical certificate.

Proposed Amendment

Notice 80–24 proposed specific exemption procedures for Part 67. They were proposed in response to a Federal District Court decision in the case of *Delta Air Lines, Inc.*, v. *United States, et al.*, 490 F. Supp. 907 (N.D. Ga. 1980) (*Delta* case). In that case Delta Air Lines challenged the authority of the Federal Air Surgeon to place certain limitations on airman medical certificates issued under the authority of exemptions from Part 67 and questioned the propriety of issuing exemptions at all under the current regulatory structure of Part 67.

In its decision the Court found that the Federal Air Surgeon, in granting exemptions from Part 67, had acted improperly in placing functional limitations on the medical certificates issued under the authority of exemptions as well as those issued under § 67.19. These functional limitations (such as "not valid for pilot-in-command duties") restrict the position which an airman can hold in the cockpit. The Court found that the Federal Air Surgeon had not been delegated authority to impose these limitations.

The Court distinguished these limitations from operational limitations which, the Court found, are properly placed on medical certificates. They relate to procedures by which the applicant can be enabled to perform his or her duties (such as "pilot must wear corrective lenses" or, for pilots with defective color vision, "not valid for night flight or by color signal control").

Secondly, the Court found that in issuing exemptions from the nine areas excepted from the special issuance procedures in § 67.19, the FAA had effectively amended Part 67. Although the FAA's evolving procedures were based on the advance of medical technology, the Court determined this change in policy had not been adopted in accordance with the Administrative Procedure Act.

While Notice 80–24 proposed explicit exemption procedures for Part 67 with special emphasis on the nine areas excluded from § 67.19, the FAA has now determined that it should not continue to use the formal exemption process to grant relief to individuals who do not meet the medical standards for certification in §§ 67.13, 67.15, and 67.17. Instead, this relief can be provided more efficiently through the special issuance procedures and, to facilitate this, the nine exclusions are being deleted from § 67.19.

Exemption Process

A complex administrative procedure is involved in processing a formal petition for exemption from the medical standards of the Federal Aviation Regulations. It requires the preparation of extensive and detailed documents, the establishment of a public docket, and action by the Federal Air Surgeon and the Chief Counsel, on behalf of the Administrator. It creates an additional burden for the FAA and the airman seeking relief from disqualification under the medical standards. Moreover, as medical evaluation and treatment techniques have improved, increasing numbers of airmen with serious conditions have sought, and been granted, medical certification through the exemption process as the only avenue of relief available. The resulting increases in administrative processing time inconvenience petitioners, and the additional expenditure of FAA resources is significant. Numerous comments to Notice 80–24 indicate dissatisfaction with this system.

excluded conditions indicate that extension of the authority to the Chief, Aeromedical Certification Branch, Civil Aeromedical Institute, and the Regional Flight Surgeons to include those specified conditions will not impact adversely on airmen or on the safety of the certification process.

When a medical condition previously excluded from § 67.19 is involved, factors that will generally be considered in determining whether such an issuance is appropriate are, with some revision, those proposed in Notice 80–24 for consideration under exemption procedures. They are discussed later in this preamble.

Thus, by reducing the administrative delays of the exemption process and by decentralizing the decision authority in cases of specifically disqualifying conditions, significant improvements in system responsiveness and efficiency are possible.

Final Denial of Medical Certificates

Section 67.25 is being revised to give the Chief of the Aeromedical Certification Branch of the Civil Aeromedical Institute and the Regional Flight Surgeons additional authority to issue denials of medical certificates that are "final" for the purposes of appeal to the NTSB. Previously, the authority to issue a denial under Section 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1422), i.e., a "denial by the Administrator," had been delegated only in the case of the nine medical conditions specified in §§ 67.13(d)(1)(i), (d)(2)(i), (e)(1), and (f)(1); 67.15(d)(1)(i), (d)(2)(i), (e)(1), and (f)(1); and 67.17(d)(1)(i), (d)(2)(i), (e)(1), and (f)(1). Since final denial under section 602 of the Federal Aviation Act of 1958 is required before an appeal can be taken to the National Transportation Safety Board, this change will speed and simplify the review process for additional applicants.

Under this amendment a final denial of a medical certificate may now be issued by one of these officials in all cases except those involving an unspecified mental or neurologic condition or general medical condition that is disqualfying because of a finding by the Federal Air Surgeon that the condition makes the applicant unable to perform airman duties safely or may reasonably be expected, within 2 years, to make him unable to perform those duties safely. (These conditions are specified in §§ 67.13(d)(1)(ii), (d)(2)(ii), and (f)(2); 67.15(d)(1)(ii), (d)(2)(ii), and (f)(2); and 67.17(d)(1)(ii), (d)(2)(ii), and (f)(2).) The cases frequently involve unique situations for which uniform guidance cannot be prepared and which require the application of special medical expertise and careful individualized review. For this reason, any final denial should be by the Federal Air Surgeon, personally, on behalf of the Administrator.

It should be noted that, notwithstanding this delegation, an applicant may still seek reconsideration by the Federal Air Surgeon of any denial by one of these officials. As appropriate during this reconsideration, the Federal Air Surgeon will continue the practice of consulting with a group of medical specialists from outside the FAA.

No Change in Policy

While this amendment changes the procedure by which certificates are issued to certain individuals who have been disqualified under §§ 67.13, 67.15, and 67.17, it does not reflect a change in the policies of the FAA with respect to determining whether those individuals are medically acceptable for exercise of airman privileges. The certificate process will continue to utilize, where appropriate, objective consultant medical specialists whose opinions will ensure specialized expertise in the review of medical certificate cases. Using every appropriate evaluative technique, the Federal Air Surgeon, acting on behalf of the Administrator, will continue to issue medical certificates to applicants who are able to perform airman duties without endangering safety in air commerce, after considering all available information on the applicant, the natural history of the disqualifying medical condition, and the need for any limitations.

Acceptance of Medical Risk by Certain Pilots

In deciding whether to issue a certificate under § 67.19, the Federal Air Surgeon must balance the needs and desires of the applicant against the risks to society. The FAA recognizes that individuals

of another individual in his or her care. For this reason, if there is a reasonable risk that such a pilot may experience an incapacitating medical event, even though that risk may be relatively small, the Federal Air Surgeon must consider the degree of protection to which the public is entitled in commercial operations. When transportation by an air carrier is involved, the Federal Aviation Act requires the Administrator, on whose behalf the Federal Air Surgeon acts, "to consider the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest" (49 U.S.C. 1421).

The private pilot, however, is not in the business of providing safety transportation of another's person and property. If the risk of incapacitation is sufficiently remote, so that persons in other aircraft and on the ground are not endangered, it is necessary to impose those limitations on the pilot that would be designed to provide the extra level of protection to which the public is entitled in the case of a commercial or airline transport pilot. Thus, when reasonable safeguards of other individuals are provided, the private pilot should be allowed to return to flying after recovery from, or control of, potentially incapacitating disease has been clearly established. This amendment revises § 67.19 to state this policy governing special issuance of third-class medical certificates.

Changes to § 67.19

Notice 80–24 proposed to add a new § 67.18 to specifically state that exemptions from §§ 67.13, 67.15, and 67.17 are issued in accordance with Part 11 (14 CFR Part 11), and that petitions for exemption from that Part are granted or denied by the Federal Air Surgeon. Since all relief to qualifying individuals is now expected to be provided through § 67.19, proposed § 67.18 is not being adopted.

Paragraph (b) of proposed § 67.18 would have specified the limitations and conditions that the Federal Air Surgeon may place on a certificate. This paragraph is being adopted as part of § 67.19. It provides that the Federal Air Surgeon may limit the duration of the certificate, condition the continued effect of the certificate on the results of subsequent medical tests, examinations, or evaluations, and impose any operational limitation on the certificate needed for safety. Historically, conditions and limitations such as these have been placed both on medical certificates issued under § 67.19 and on those issued under an exemption.

Functional Limitations

Revised § 67.19(b) provides that the Federal Air Surgeon may condition the continued effect of the certificate on compliance with a statement of functional limitations issued in coordination with the Director of Flight Operations or the Director's designee. Proposed § 67.18 would have required a separate finding of equivalent level of safety by the Director. Also, contrary to the proposal, these functional limitations will only be issued in connection with second- and third-class certificates.

While functional limitations such as "not valid for pilot in command" have been issued for all classes of medical certificates in the past, this rule limits their use to second- and third-class certificates only. First-class certificates will not be issued with limitations that would prevent the holder from exercising the only airman privilege for which such a certificate is required by the regulations, namely, acting as pilot in command in operations conducted under Part 121 and certain operations under Part 135. If the applicant's condition is such that he or she should not be allowed to act as pilot in command in those operations, a second-class certificate may be issued to medically qualified applicants to allow them to perform other crewmember duties.

Those airmen now holding first-class certificates with functional limitations may continue to be so certificated if there is no adverse change in the medical condition concerned and if they otherwise meet the standards. This will avoid any inequity that might result if this amendment were to be applied retroactively.

The FAA received a number of comments concerning functional limitations. The history of the FAA's use of these limitations will be further discussed in response to those comments.

requirements for treatment, and its nature.

Personality Disorder, Psychosis, or Drug Dependence

In the case of an applicant who has had a personality disorder, psychosis, or drug dependence, the factors considered include: (1) Any current or recent psychiatric symptoms, aberrant behavior, or psychiatric or other medical findings; (2) the need for, or the use or abuse of, any clinical agents, for either therapeutic or recreational purposes; (3) any personality traits or other recognized factors involving the risk of future recurrence of the problem or the risk of other adverse events; and (4) the current psychiatric and psychological functional status and stability of the applicant, as determined by appropriate evaluative techniques.

Alcoholism

Where the applicant has an established medical history or clinical diagnosis of alcoholism and is not qualified under the standard revised by this amendment, the factors considered under § 67.19 would include: (1) The period of the applicant's abstention from alcohol; (2) the severity of the problem and how long it has existed; (3) the number of times treatment was sought and relapse occurred; (4) the quality of the final treatment effort; (5) the presence of residual medical complications, especially neurologic manifestations; (6) progress in marital, social, vocational, and educational areas, as appropriate, since rehabilitation began; (7) commitment to rehabilitation by virtue of continuing contacts with social or professional agencies, or both, and their opinions and recommendations; (8) any underlying personality difficulties that would either be disqualifying independently or adversely affect sustained abstinence; and (9) the findings of a recent psychiatric and psychologic evaluation.

Where there is a history or diagnosis of alcoholism, one factor proposed in Notice 80–24 will not be considered. The FAA agrees with the Air Line Pilots Association (ALPA) that the age of the onset of alcoholism and the individual's stability and adjustment before the onset can only be estimated, and are of questionable usefulness as evaluation factors. ALPA is an organization with considerable experience in the diagnosis, treatment, and rehabilitation of pilots with alcoholism.

Epilepsy or Disturbance of Consciousness

For an applicant with a history or diagnosis of epilepsy or disturbance of consciousness, the factors would include: (1) Any current or recent neurological symptoms or neurological or other medical findings; (2) the availability of an explanation for the cause of the problem that is acceptable in terms of risk for future recurrence; (3) any recognized factors involving the risk of future adverse neurological events or of other adverse events; and (4) the anatomic integrity and functional status of the nervous system as determined by appropriate evaluative techniques.

Cardiovascular Problems

In the case of an applicant who has a medical history or current diagnosis of a disqualifying cardiovascular problem, the factors would include: (1) Any current or recent cardiovascular symptom, or cardiovascular or other medical finding; (2) the functional capacity of the heart as measured by appropriate techniques; (3) the presence or absence of myocardial ischemia or of the anatomic propensity for it; (4) the presence of, or likelihood of, changes in heart rhythm that could affect the individual's level of consciousness or ability to perform in the aviation environment; and (5) any recognized factor involving the risk of future adverse cardiovascular events.

Diabetes

The Federal Air Surgeon will continue to deny certification to individuals who have an established medical history or clinical diagnosis of diabetes that is controlled by the use of insulin or another hypoglycemic drug. The FAA has not found circumstances under which such an individual may be certificated

or diagnosis of angina pectoris normally indicates heart disease. The agency further proposed to add a paragraph (e)(1)(iii) to reflect the Federal Air Surgeon's consistent and well-established policy of denying applications for medical certificates under §§ 67.13, 67.15, ot 67.17 by applicants with a known history of "coronary heart disease, treated or untreated," whether or not the medical events specified in paragraph (i) or (ii) have occurred.

Although Notice 80–24 used the words "coronary heart disease" in proposed paragraph (e)(1)(iii), the comments received indicated public concern that the minimal and insignificant degrees of coronary atherosclerosis found in many young persons could be considered disqualifying. There also was concern that the rule could be used to require more invasive testing of applicants who had no history, signs, symptoms, or findings of disease. The agency agrees that change from the propoosed wording for clarification is appropriate to relieve these concerns.

Accordingly, the proposed working of paragraph (e)(1)(iii) of these provisions is revised to read: "Coronary heart disease that has required treatment or, if untreated, that has been symptomatic or clinically significant." This revision better expresses the intent of the proposal, i.e., to clarify the standard to reflect the policy of the FAA that individuals with a history of coronary heart disease not be medically certificated for the exercise of airman privileges under §§ 67.13, 67.15, or 67.17. These individuals may be certificated through the discretionary special issuance procedures of § 67.19 after a separate determination that their disease no longer represents a risk to aviation safety.

In the past, FAA practice has been to deny any application for medical certification by an applicant who has a history or finding of coronary heart disease, including those who have undergone coronary artery bypass surgery and grant medical certification, where possible, via the formal exemption process. This disqualification has been consistent with the medical standards of Part 67. Subsequent medical certification, where possible, has been based upon acceptable evidence that the individual has adequately recovered and that his or her anatomic and physiologic cardiac status would not represent a significant risk to aviation safety in the subsequent exercise of airman privileges. Airmen were issued medical certificates through a grant of exemption that specified the airman privileges permitted and which required periodic medical reevaluation to detact the relapse or progression of disease known to occur ultimately in a large percentage of cases. This procedure protected the public while providing a means for relief for those individuals whose heart disease had stabilized sufficiently so as to pose an acceptable risk.

A number of commenters express the belief that the cordioivascular standards for certification under §§ 67.13(e)(1), 67.15(e)(1), and 67.17(e)(1) should be relaxed. Commenters also suggest that these standards be revised to set forth more detailed, objective criteria and tests by which medical certification can be determined. (In fact, the latter comment has been made the subject of a separate petition for rulemaking by a group of concerned pilots). Many commenters contend that the standards, and for that matter all of Part 67, fail to take into account the advances in corrective surgery and treatment that have occurred since the Part was issued.

Need for Review of Part 67

These comments, as they apply to the proposal, are discussed later in this preamble. The broader, substantive issues which they raise, however, cannot be resolved within the context of this rulemaking action. These issues warrant full consideration in a detailed and comprehensive review of the medical standards contained in Part 67, and the FAA plans to undertake such a review in response to these comments.

Some commenters are asking, for example, that objective standards for recertification after corrective heart surgery by placed in §§ 67.13, 67.15, and 67.17. While the risks of incapacitation associated with coronary heart disease are well known (including crippling chest pain, arrythmia, infarction, and sudden death), predictions of the likelihood of such incapacitating events in particular cases have proven as difficult as predicting the course of the disease itself. Accordingly, in the past, it has been even more difficult to make generalizations about such risks in a manner that would enable the setting of objective standards to be applied to all applicants with known coronary artery disease.

that support the issuance of these exemptions as objective, generally applicable regulatory standards and, in the process, relax the current standards appropriately? As will be discussed later, the answer is not readily available, as some commenters imply, from a review of medical literature, such as the report of the Eighth Bethesda Conference of the American College of Cardiology (1975).

Whether recommendations of either the Eighth Bethesda Conference or those who commented on Notice 80–24 can feasibly serve as generally-applicable regulatory certification standards is an issue requiring a major effort to obtain the views of the medical profession and of all interested parties. That effort will be undertaken as part of the review of all the medical standards in Part 67.

Need for Interim Clarification

Pending completion of review of the certifiction standards reflected in current Part 67, the need for immediate clarification of the cardiovascular standard remains. The NTSB's recent interpretations of the present standards in §§ 67.13(e)(1), 67.15(e)(1), and 67.17(e)(1) are in sharp conflict with the certification policies and regulatory history underlying these standards. In several medical certification decisions the NTSB found airmen qualified for unrestricted medical certificates despite a history of significant coronary heart disease. Recently the NTSB determined, upon appeal by several airmen, that a history of coronary heart disease treated by bypass surgery was not disqualifying under Part 67. In these cases, the Board has equated the functional improvement afforded by such surgery to the elimination of significant risks of incapacitation associated with coronary artery disease. Under these determinations, the NTSB ordered the issuance of medical certificates of all three classes to these airmen. The certificates issued, therefore, contain neither limitations nor requirements for periodic medical re-evaluation. Further, the NTSB decisions limit the FAA's ability to obtain subsequent medically appropriate evaluations for determining continuing eligibility for certification is some cases. In others, the NTSB disregarded medical information the FAA considered adverse.

Under the Federal Aviation Act of 1958, section 602(b), it is the responsibility of the FAA to determine whether an applicant for an airman certificate is physically able to perform the duties pertaining to that certificate. Medical certification of airmen and the regulations pertaining to it are part of the FAA's fulfillment of that mandate. Section 602(b) also provides that an applicant who is denied certification by the FAA may petition the NTSB for review of the FAA's action, and the NTSB shall determine whether the airman meets the rules, regulations, or standards that the FAA has established. In several recent cases. the NTSB has interpreted the medical standards of §§ 67.13(e)(1), 67.15(e)(1), and 67.17(e)(1) in a manner inconsistent with the intent and practice of the FAA.

To meet the FAA's statutory responsibility to ensure safety in air commerce, interim clarification of the cardiovascular standard is necessary, pending substantive review of Part 67. The rule as adopted makes it clear, pending further rulemaking, that an airman with a demonstrated history of coronary heart disease resulting in treatment or which has been otherwise clinically significant does not meet the requirements for certification under §§ 67.13, 67.15, or 67.17. These persons will continue to have the opportunity for discretionary certification under the special issuance procedure, which replaces the more cumbersome exemption process. A specific goal of the Part 67 review to be undertaken will be to determine the extent to which these persons' medical qualifications can be evaluated under objective standards to be specified in the regulations themselves.

Revision of Alcoholism Standard

After the publication of Notice 80–24, the United States Court of Appeals for the Ninth Circuit held that §§ 67.13(d)(1)(i)(*c*), 67.15(d)(1)(i)(*c*), and 67.17(d)(1)(i)(*c*), disqualifying an applicant for airman medical certification because of an established medical history or clinical diagnosis of alcoholism, were invalid (*Jensen* v. *FAA*, 641 F.2d 797 (9th Cir. 1981)). This decision is based upon the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, 42 U.S.C. § 4651(c)(1) (Hughes Act):

ated on an individual basis and the regulations' prohibition waived in appropriate cases. In view of the Court's decision, however, the FAA is amending §§ 67.13(d)(1)*(c)*, 67.15(d)(1)*(c)*, and 67.17(d)(1)*(c)* to provide that an established medical history or clinical diagnosis of alcoholism is disqualifying for airman medical certification unless there is documented clinical evidence of recovery, satisfactory to the Federal Air Surgeon. The rule specifically states that this evidence must include sustained total abstinence from alcohol for not less than the preceding 2 years. Other factors considered include the problem's severity, frequency, and treatment; residual medical complications; progress in, and commitment to, rehabilitation; personality difficulties; and recent psychiatric and psychologic findings.

Individuals who do not meet the revised standard may be reconsidered for special issuance of a medical certificate under the provisions of § 67.19. As amended, this rule will allow the continuation of the successful programs that have enhanced aviation safety by encouraging self-identification, treatment, and rehabilitation, and the return to flying activities of many pilots.

Analysis of Comments

The FAA received approximately 300 public comments in response to Notice 80–24. Most of the comments address themselves to the revision of the cardiovascular standards and the perception that the proposed amendments alter the rights of airmen to appeal adverse certification decisions. Only 14 comments specifically address the proposed exemption procedures. Many comments refer to issues not pertinent to the proposed rule.

On February 3 and 4, 1981, the FAA held a public hearing to exchange views on the proposed amendment. Representatives of the aviation industry and interested individuals attended that meeting. Two hundred pages of testimony were taken.

Nature of Disqualification

One hundred twenty-two commenters object to making certain medical conditions, such as myocardial infarction, disqualifying under §§ 67.13, 67.15, and 67.17. The objection stems from the commenters' belief that Part 67, which is more than 20 years old, fails to take into account the advances in corrective surgery and treatment that have occurred since the rule was issued. Many commenters characterize the regulations as making these conditions "automatically disqualifying for life." Forty-two commenters recommend that cardiovascular problems not be "absolutely" disqualifying under §§ 67.13, 67.15, or 67.17, but only be considered as temporarily disqualifying until an individual has recovered sufficiently to be recertificated. Some commenters are concerned that coronary artery bypass surgery would be absolutely disqualifying under these provisions.

The FAA still considers the history or presence of significant heart disease, regardless of treatment, to preclude routine medical certification of the airmen affected. Further, any coronary heart disease that has required treatment is considered significant. While the ability to diagnose, evaluate, and intervene therapeutically has been enhanced by modern medical advancements, certification should be granted only after extensive individual evaluation and review by specialist, and discretionary requirements for periodic reevaluation and any appropriate operational or functional limitations remain necessary.

It is not accurate to characterize the disqualifying medical conditions in §§ 67.13, 67.15, and 67.17 as "absolutely disqualifying" or "automatically disqualifying for life." Although individuals with a history or diagnosis of these conditions are "disqualified" under §§ 67.13, 67.15, or 67.17, the Federal Aviation Regulations still provide for individual consideration (formerly through the exemption process and now under § 67.19) using all appropriate and available evaluative techniques, including new developments, to determine what airman privileges, if any, can be safely exercised. That the specified conditions in §§ 67.13, 67.15, and 67.17 do not permanently prevent a person from exercising airman privileges is evident from past FAA decisions to certificate medically, after individual evaluation, thousands of airmen who did not meet these standards. As already noted, revised § 67.19 provides an administratively simpler mechanism for these actions, removing any requirement that airmen obtain exemptions.

has been expressed in language similar to that suggested by this commenter.

Exemptions for Alcoholism

The same pilots' organization strongly recommends that a history or diagnosis of alcoholism no longer should require a grant of exemption before certification is possible. In addition to the revision of the standard already discussed, § 67.19 now permits certification, when appropriate, through special issuance procedures without need for the formal exemption process, regardless of the medical condition involved.

Right of Appeal to the NTSB

One hundred fifteen commenters express concern that protection be given to the right to appeal any adverse certification decision by the Federal Air Surgeon, particularly after the denial of certification because of coronary heart disease.

Neither the proposed nor the final rule deprives any airman of his or her appeal rights. An airman still has the right to request review by the NTSB of any denial of certification by the FAA based on the standards in §§ 67.13, 67.15, and 67.17, and that review will determine whether the denial was proper under those provisions. The intent of the revision of the heart disease standard, pending review of all Part 67 medical standards, is not to deprive any individual of these rights, but to preclude further misinterpretations of the cardiovascular standards by the NTSB that have already resulted in issuing unrestricted and unmonitored medical certificates of all classes to individuals with histories of significant heart disease.

The interim change in the wording of the rule reflects the knowledge that a history or diagnosis of angina pectoris normally indicates heart disease with significant risk of incapacitation whether or not it can be stated that a myocardial infarction will result. The change also reflects the knowledge that no treatment, including surgery, can be relied upon to cure coronary heart disease, to eliminate the significant rate of disease progression, or to eliminate the risks of incapacitation attributable to the disease. Since, in some cases involving coronary artery bypass surgery and angina pectoris, the NTSB has interpreted the medical standards of the Federal Aviation Regulations as permitting unlimited and unmonitored certification, sometimes without successful completion of the medical evaluations considered necessary by the FAA, this revision of the language of the standard is necessary to ensure that the FAA fulfills its responsibility to promulgate rules necessary to provide safety in air commerce. However, no change in FAA certification policy or practice regarding cardiovascular disease is embodied in this revision. This has been evidenced by the longstanding uniformity of FAA practice in this regard and the regulatory history dating back to the original 1958 Flight Safety Foundation Medical Advisory Panel recommendations. Further, those airmen who have adequately recovered and whose medical evaluations indicate the absence of significant risk may be certificated, with appropriate limitations or conditions, under the discretionary special issuance provisions of § 67.19.

List of Criteria or Tests

One hundred forty-four commenters request that the standards include a list of specific criteria or tests which applicants for certification must satisfy. Some commenters mention the report of the Eighth Bethesda Conference of the American College of Cardiology (1975) in this regard.

As already noted, the FAA intends to consider these suggestions in conjunction with an overall review of the medical certification standards in Part 67. However, it is important to state here why these interim cardiovascular standards are being issued in a format that is clearly contrary to that desired by these commenters.

In the past Part 67 has stated certain medical conditions that are disqualifying in general terms. There are some areas such as vision where it has been possible to state minimum requirements by listing specific parameters. However, in other areas it has been the opinion of the FAA that the nature of medical science and the complexity and variability of the medical factors, as they affect different

not result in arbitrary denial of certification to some individuals while providing for certification of others whose histories or current conditions indicate an unacceptable risk to aviation safety. In such a standard there would have to be room for consideration of individual physiological differences; variations in disease manifestations; mitigating, exacerbating, or interactive findings; and the availability of alternative evaluative technology.

It should be noted that this preamble does specify the categories of information currently considered important in determining medical status where there is history or diagnosis of those severe disorders which permit certification only through the special issuance procedure. However, individual cases may involve consideration of additional factors, or exclusion of listed factors that are not pertinent. Information needed with respect to any factor, if not contained in the applicant's records, will be requested at the time of application for a special issuance.

Consideration of the pertinent factors in each case, however, determines the scope of the medical investigation and the appropriate methodology. Aeromedical certification decisions will be based, when appropriate, upon review by medical specialists of all data thus obtained.

Eighth Bethesda Conference

The report of the Eighth Bethesda Conference of the American College of Cardiology, a collection of scientific papers, has been used extensively by the FAA in developing certification policy and in making individual certification decisions. In most respects its recommendations closely followed already existing FAA procedures. It addresses considerations pertinent to the diagnostic and prognostic evaluation of individuals having or suspected of having heart disease. The FAA will continue to use this document as it was intended, that is, as a technical and policy resource.

Epidemiological Factors

A physician, a medical college professor, notes that more than half of all deaths from heart disease are due to sudden arrhythmias; that is, irregularities in the heart beat, which may not be preceded by other symptoms of heart disease, such as angina pectoris or myocardial infarction. This commenter describes epidemiologic risks for sudden death in relation to factors such as age, smoking history, and various electrocardiographic findings. He suggests their use in certification decisions. The detailed evaluations required for special issuance of medical certificates under § 67.19 presently provide for careful consideration of all risk factors. Consideration of how these factors might lend themselves to the development of specific requirements regarding each identified risk factor will be welcomed in the course of the Part 67 review.

Diabetes

An organization composed of a large number of aircraft owners and pilots comments that Notice 80–24, in part, is inconsistent with the Federal Aviation Act of 1958 (FA Act) and with Part 11 of the Federal Aviation Regulations. It argues that because these provisions authorize and provide procedures for issuing exemptions in the case of any medical condition when it is in the public interest, the FAA may not prejudge any medical condition. This comment is based upon the FAA policy regarding diabetes requiring insulin or other hypoglycemic agent for control. Notice 80–24 indicates that the FAA has not found information demonstrating the circumstances under which an individual with drug-controlled diabetes could be certificated and, therefore, no factors were included.

The FA Act only allows issuing airman certificates to applicants who are physically able to carry out the airman duties they seek to perform. The fact that procedures are available for certification of all individuals, under Part 11 or otherwise, does not preclude the Federal Aviation Administrator, acting through the Federal Air Surgeon, from fulfilling this statutory requirement when he determines that all individuals with a specific medical condition cannot safely exercise airman privileges. The authority to grant exemptions from the Federal Aviation Regulations is discretionary. A policy that denies exemptions

The same organization objects to the proposed changes in the cardiovascular standards in §§ 67.13(e)(1), 67.15(e)(1) and 67.17(e)(1) on the basis that they are not justified by accident experience. The FAA does not consider it necessary to justify every rule with accident statistics. Positive regulatory actions designed to promote or maintain a high level of aviation safety are preferred and more appropriate than those offered in response to system failure. The low incidence of medically related accidents must be considered testimony to the effectiveness of the medical certification system, not as an argument that medical certification should be liberalized. The current changes are needed to eliminate ambiguity.

Court Decision

The organization also suggests that the proposed changes are not responsive to the Court's decision in *Delta Air Lines, Inc.* v. *United States, et al.* However, the FAA considers this revision to part 67 to be fully responsive to the Court's decision. This amended rule makes clear that discretionary airman medical certification is possible in many cases despite a history or diagnosis of serious disease, and it provides relief through procedures more efficient than formal exemptions, and, thus, meets the Court's objection that this relief has been provided without compliance with the Administrative Procedure Act. It specifically expresses the delegated authority of the Federal Air Surgeon, on behalf of the Administrator, to issue medical certificates contingent upon compliance with operational limitations or, after coordination with the Director of Flight Operations, functional limitations for second- and third-class certificates.

Functional Limitations

One major professional pilots' organization and an organization representing a large number of other professional flight crewmembers oppose the proposal to permit the Federal Air Surgeon to issue medical certificates contingent upon a statement of functional limitations issued only by the Director of Flight Operations. They have no objection, however, to use of these limitations. These commenters suggest that involving the Director as a decisionmaker in determinations that are solely medical is an unwarranted reversal of FAA's policy of permitting only those with specific technical knowledge and specific expertise to make regulatory decisions. The commenters believe this would be confusing. Both commenters suggest that the authority should rest solely with the Federal Air Surgeon.

The FAA agrees that while the Director of Flight Operations has the capability to test an applicant's current ability to pilot an aircraft, he does not have the expertise to predict the consequences of an airman's medical condition. The proposed procedure is changed, therefore, to provide for determining functional limitations, where appropriate, by the Federal Air Surgeon in coordination with the Director of Flight Operations. For the reasons already noted, these limitations an authorized only for second- and third-class airman medical certification.

Commenters for one airline and for an association of airlines oppose the use of functional limitations to designate the cockpit duties of pilots. The airline believes that any regulation incorporating such limitations would impair the ability of airlines to perform their services with the highest possible degree of safety in the public interest. Further, this commenter states that if a pilot is medically qualified to justify the issuance of a first-class medical certificate, then he or she should be permitted to exercise all of the privileges of the certificate; that is, pilot in command, first officer, or second officer. The Airline believes that if the airman is not medically qualified, then he or she should not be issued the certificate. The association objects to granting functionally limited certificates to airmen not qualified by airline standards in the belief that it undermines the airline prerogative to determine the placement and duties of its flight crewmembers.

In the past, the FAA has used functional limitations to specifically match the duties an airman is authorized to perform with his or her physical capabilities and overall medical condition. Where some very small but acceptable element of existing aviation risk was perceived through medical evaluation, an exemption was granted or a certificate specially issued with appropriate followup requirements and limitations of function or responsibility. These limitations and reevaluation requirements ensured a level of safety equivalent to that in cases of airmen certified under the standards. In the belief that the class

with functional limitations and who have maintained certification without adverse medical change or functional difficulty, the FAA will continue to issue first-class certificates to them if the applicants otherwise remain qualified.

Mental Conditions

One professional organization suggests that the grouping of personality disorders, psychosis, and drug dependence into a single category is an arbitrary and misleading association since ambiguity exists within diagnoses. The commenter further expresses concern that the proposed rule would minimize the diagnostic input from psychologists and social workers. A multidisciplinary format is suggested with the rule specifically requiring assessment of affected airmen by psychiatrists, psychologists, and social workers.

The evaluation factors listed are public guidelines regarding the information considered significant in evaluating individuals disqualified under specific medical standards. The groupings are for convenience only, reflect the wording of the actual standards, and indicate only that the same factors are applicable for each of the grouped conditions. The factors are not necessarily all-inclusive and all may not be appropriate in every case.

The FAA accepts and considers medical evaluations from all recognized professional workers, though it sometimes requires specific information available only from workers in particular disciplines. When appropriate, psychiatrists, psychologists, and social workers are included. A "team" approach to diagnosis and treatment frequently is noted. Because the information needed must be provided and fees paid by the airman, however, the FAA requests only what is necessary for certification decisions. A rule that requires multiple professional consultations in every case would be unnecessarily burdensome.

Treatment Effort

The same professional organization also suggests that evaluation of an individual with a history of alcoholism should include an assessment of "the quality of the final treatment response" rather than, as proposed, "the quality of the final treatment effort." Determining the final response is, of course, the objective in consideration of all factors. By use of the word "effort," the FAA includes consideration of the quality of participation of the applicant in his or her treatment as well as the quality of the treatment facilities utilized.

Classification as a Nonsignificant Regulation

Notice 80–24 stated that the FAA had determined that the regulation proposed was not considered to be significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Twenty-seven commenters object to the "nonsignificant" classification placed on the proposed rule, citing the criteria for significance in the DOT Policies and Procedures in their comments. The commenters contend that the proposal should have received the review and concurrence of the Secretary of Transportation, as is required for significant regulatory actions.

Objections to the proposal's classification as nonsignificant were also raised at the public hearing held on February 3 and 4, 1981. The FAA advised the participants that its determination that the proposed action was not significant under the criteria of the DOT order would be reviewed in the light of all comments received in response to the notice and those presented at the public hearing. The FAA encouraged all interested individuals to provide to the rulemaking docket their comments regarding the specific impact of the proposal.

The FAA's initial determination that the proposal was not significant was reviewed by the Office of the Secretary of Transportation before it was issued, and the Department's Semiannual Regulations Agenda and Review List, issued by the Secretary (46 FR 20036; April 2, 1981), indicated agreement in this determination.

Because of controversy evidenced by these comments, the FAA has determined that this rulemaking should be considered significant under the criteria of the Department of Transportation Regulatory Policies

problem are encouraged to submit themselves to medical treatment and rehabilitation as soon as possible. These airmen include commercial and air carrier pilots who depend on their medical certificate for their livelihood and on whom, in turn, the public depends for safe air travel. They also include general aviation pilots who share the airspace with those pilots and the traveling public.

Providing means by which these airmen may subsequently obtain a medical certificate discourages concealment of a disqualifying medical condition to avoid the permanent loss of employment or airman privileges. This incentive is necessary because, while there has been a marked improvement in the evaluation and treatment of many of these conditions, they cannot always be detected by a routine medical examination.

Encouraging airmen to seek medical treatment as early as possible benefits both the public and the airman. The public is protected from the risk that the airman may become incapacitated while operating an aircraft. The public also benefits because airmen who seek early treatment and voluntarily provide accurate medical information contribute to safety in air commerce. Voluntary disclosure to the FAA allows careful assessment of the condition and the opportunity for special periodic medical surveillance in the event that medical certification is considered appropriate. This contributes substantially to the fund of knowledge regarding these conditions and aviation medicine generally.

The airman's early recovery and return to flying is facilitated by disclosure, since early treatment substantially improves the prognosis for many conditions.

Economic and Social Benefits

Issuing certificates under § 67.19 provides economic and social benefits for the airman, the aviation community, and the general public. First- and second-class medical certificates allow applicants to participate in commercial aviation activities without compromising safety and reduce the likelihood that the petitioner will become economically dependent upon the public. Training costs to replace individuals who would otherwise be unable to act as airmen in commercial operations or for private hire are avoided and the pool of qualified aviation personnel is maintained. Third-class medical certificates allow applicants to pursue aviation activities without compromising safety and thereby contribute to the promotion of civil aviation generally.

Regulatory Evaluation

The FAA conducted a regulatory evaluation for this final rulemaking action. The FAA determined that this rule imposes no new requirements on airmen seeking first-, second-, or third-class medical certificates. However, the FAA has determined that this rule may conceivably impose minimal-to-negligible costs in the aggregate by impacting those individuals who have histories of significant heart disease, and through the NTSB appeals process, might have ultimately been issued unrestricted and unmonitored medical certificates. While the new regulation does not preclude an individual's right of appeal to the NTSB, it does clarify the intent with respect to cardiovascular standards and eliminates the possibility of further misinterpretation. Therefore, a few individuals who might otherwise be considered certifiable by the NTSB under that misinterpretation may be restricted from receiving medical certificates under the new regulations. Furthermore, this rule imposes no additional costs on the Federal Government.

Implementing this rule provides benefits in terms of cost savings in the aggregate to certain airmen who apply for medical certificates, especially those airmen who were disqualified under the conditions of previous regulations from receiving medical certificates because of certain medical conditions; to businesses which operate aircraft; and to the Federal Government. Specifically, this rule allows the initial qualification under §§ 67.13, 67.15, and 67.17 of individuals with a history of alcoholism that seek medical certificates where there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence for not less than the 2 preceding years. Prior to this rule, a medical certificate for an individual with such a history could only be sought through the exemption process. Therefore, this rule eliminates individual processing costs and time lost due to the exemption process for airmen with this condition.

The total cost savings to airmen who apply for medical certificates in a given year will vary according to the number of airmen who would have been disqualified from receiving medical certificates under conditions of previous regulations and who are now provided relief through either initial qualification (in the case of alcoholism) or immediate review for special issuance of medical certificates; and the value of time foregone, both personal and business-related, for applicants that sought medical certificates through the exemption process and special issuance process and are now provided a more timely review process. According to the FAA's *1980 Aeromedical Certification Statistical Handbook* for the period of 1961–1980, there were approximately 8,000 petitions for exemption filed that would now qualify for special issuance review. Cost savings, in terms of reduced training costs and reduced aircraft downtime, are also expected for businesses which operate aircraft.

Important cost savings will accrue to the Federal Government. This rule reduces the administrative case review time of documents, decentralizes the decision authority in special issuance cases, and increases FAA system responsiveness.

Accordingly, the benefits of this regulation outweigh any costs that may be incurred. However, the magnitude of the benefits and costs, and the number of small entities affected, do not involve a significant economic impact on a substantial number of small entities.

Adoption of the Admendments

Accordingly, Part 67 of the Federal Aviation Regulations (14 CFR Part 67) is amended, effective May 17, 1982.

[Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))]

NOTE—Since this final rule amends Part 67 to incorporate relief to airmen currently provided by the exemption process and does not impose any new cost or other economic burden on airmen, the FAA has determined that this is not a major regulation under Executive Order 12291. For these reasons and for the other reasons stated above, it is certified that, under the criteria of the Regulatory Flexibility Act, this final rule will not have a significant economic impact on a substantial number of small entities. However, because of the controversy over some aspects of the proposal, the FAA has determined that this regulation should be considered significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Amendment 67–12

Fees for Certification of Foreign Airmen and Air Agencies

Adopted: July 21, 1982 **Effective: October 18, 1982**

(Published in 47 FR 35690, August 16, 1982)

SUMMARY: These amendments establish (1) a schedule of fees for issuing certain airman and repair station certificates to certain foreign nationals outside the United States; (2) a method for collecting those fees; and (3) a need requirement for original certification of those airmen (a need requirement has already been established for issuing certificates to foreign repair stations). These amendments are designed primarily to recover costs the FAA incurs in certificating foreign airmen and repair stations overseas. The amendment requires that certificates be issued overseas to foreign nationals only when needed to operate or assure the continued airworthiness of U.S.-registered civil aircraft. Finally, this amendment is in keeping with the intent of Congress.

Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone: (202) 426–8196

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1981, the FAA issued Notice of Proposed Rulemaking No. 81–12 (46 FR 40529; August 10, 1982) proposing: 1) to establish fees for issuance of certain airman and repair station certificates to foreign nationals residing outside the United States; 2) a method of collecting those fees; 3) a need requirement for those airmen; and 4) a 2-year limitation on the validity of certificates issued to foreign nationals. All interested persons have been given an opportunity to participate in the making of the proposed regulations, and due consideration has been given to all matters presented.

Statutory

Title VI of the Federal Aviation Act of 1958, as amended (the Act), gives the Administrator authority to issue certificates for airmen, instructors, schools, and repair stations. Section 602(b) states that the Administrator may, at his discretion, prohibit or restrict the issuance of airmen certificates to aliens.

In addition, the Administrator is charged with establishing a fair and equitable system for recovering full costs expended for any service, such as issuing the certificates discussed in Notice 81–12, which provides a special benefit to an individual beyond those which accrue to the general public. Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) states:

> It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency . . . to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible. . . .

To give full effect to this sense of Congress, § 483a further provides:

> The head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts. . .

The statute provides that the amounts collected shall be paid into the Treasury as miscellaneous receipts.

OMB Guidance

To aid in establishing fee schedules, the Office of Management and Budget (OMB) has prescribed in Circular No. A–25, "User Charges," the general guidelines to be used in developing an equitable and reasonable uniform system of charges of certain Government services and property.

The circular provides that "Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service." Circular No. A–25 specifies:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

passport, visa, airman's certificate, or an inspection after regular duty hours).

Previous Notices

Consistent with the guidelines in Circular No. A–25, in recent years the FAA issued several notices of proposed rulemaking to establish a schedule of fees for various FAA activities (Notices 67–17, 67–18, and 78–6). The schedules were predicated, however, on the FAA's systemwide total cost of performing specific certification activities, and no attempt was made to distinguish the far greater costs incurred performing certification services overseas from costs incurred performing similar services in the United States. The proposed fee schedules were never implemented. Beginning in 1973, the Congress annually prohibited implementing fee schedules through language in the appropriations legislation for the Department of Transportation. In 1979, this prohibition was deleted from the appropriations legislation but included in Section 45 of the Airline Deregulation Act of 1978:

> Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

Before 1970, a liberal policy prevailed within the FAA regarding acceptance of applications for airman and air agency certificates by foreign nationals residing outside the United States. During the 1970's, however, the continuous expansion in worldwide demand for FAA certification services, along with the adverse movement of currency exchange rates against the U.S. dollar, placed an undue burden on FAA budgetary and manpower resources.

Simultaneously, the appropriateness of this policy was called into question. The technical sophistication of many foreign civil aviation certification authorities has been strengthened by general economic growth and civil aviation technical assistance provided by the International Civil Aviation Organization (ICAO), the United States, and other nations. Overly free exportation of U.S. certificates could deter the development of competent, indigenous certification programs. The FAA wishes to avoid that result and to encourage foreign governments in developing aeronautical codes and administrative capabilities which would permit them to conduct their own certification functions.

For these reasons the Administrator began a practice of restricting recertification of foreign nationals, primarily through the requirement that the applicant show that such certification is required to operate or assure the continued airworthiness of U.S.-registered civil aircraft (need requirement). This need requirement was incorporated in regulations governing certification of foreign repair stations (14 CFR § 145.71). To further ensure consistent implementation of this practice, these amendments incorporate the need requirement in the Federal Aviation Regulations (14 CFR Parts 61, 63, 65 and 67) governing initial airman certification.

In 1980 Congress passed the International Air Transportation Competition Act of 1979, giving the Administrator authority to establish fee schedules for airman and repair station certificates issued outside the United States. Section 28 of that Act amends § 45 of the Airline Deregulation Act of 1978 to read as follows:

> Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station.

Although § 28 provides discretionary authority to collect fees from any applicant residing outside the United States, this regulatory amendment establishes fees to be collected only from foreign nationals residing outside the United States.

(Fixed fees could not be derived for repair station certificates because the time involved varies widely.) All fees are derived from total certification costs and include direct and indirect labor costs, overhead costs, interest recovery, depreciation, and space rent costs, where appropriate. The fees therefore implement OMB Circular No. A–25 and will recover all airman and repair station certification costs incurred by the FAA in issuing original certificates to foreign nationals.

No fees will be charged for renewing airman certificates. A fee will continue to be charged for replacing stolen or lost certificates. In addition, fees will be assessed for reissuing repair station certificates since reissuing these certificates requires considerable expenditure of FAA technical resources. However, because the technical resources expended in reissuing Inspection Authorization Certificates under § 65.91 have, upon further review, been determined to be minimal, the proposed fee for renewing these certificates is not adopted. In addition, a requirement has been added that checks tendered for fee payment must be drawn on a U.S. bank. This requirement has been added because Treasury depositaries have established minimum check amounts acceptable for deposit. Without this requirement a substantial number of checks submitted for fees would be uncollectible.

These amendments also formally establish a need requirement for issuing certificates to foreign applicants outside the United States; that is, the certificates must be needed for the operation or continued airworthiness of U.S.-registered aircraft. Foreign nationals who are resident aliens will not have to meet this requirement.

The FAA does not currently issue to foreign nationals overseas: (1) Any certificates for Pilot Schools (Part 141), Ground Instructors (Part 143), Aviation Maintenance Technical Schools (Part 147), or Parachute Lofts (Part 149), and (2) certificates issued under subparts of Part 65 for Aircraft Dispatchers (Subpart C), Repairmen (Subpart E), or Parachute Riggers (Subpart F). Consequently, those parts and subparts have not been amended to include the need requirement and other requirements included in these amendments. Subpart B of Part 65 similarly has not been amended although it is understood the current practice of issuing under this subpart a limited number of air traffic control tower operator certificates overseas to foreign nationals to operate civilian/military joint-use facilities in Europe will be continued under an appropriate agreement with the Department of Defense.

Notice 81–12 proposed a 2-year validity period for each certificate issued to a foreign national who is not a resident alien. In this regard, the FAA has determined that additional information concerning this issue is needed. Therefore the proposal concerning the 2-year validity period is not adopted at this time. The FAA may, however, initiate rulemaking in this area in the future. It should be noted that withdrawing this proposal does not alter the current renewal requirements for repair station, flight instructor, inspection authorization, certain flight engineer, and student pilot certificates.

Fee Collection

For airman certificates, the FAA will collect the fees at the time of application for a certificate of rating, after first ascertaining the applicant's eligibility. The Flight Standards Office (FSO) or designated examiner will determine whether the applicant meets the need requirement and other preliminary eligibility requirements, such as age and currency. If these requirements are met, the FSO will issue a receipt as evidence of payment and forward the applicable fee to the regional accounting office serving the area. Fees must be in the form of a check, money order, or draft payable in U.S. currency to the Federal Aviation Administration and drawn on a U.S. bank. No application will be acted upon until evidence of the payment has been presented. There will be no refund of any fee payment for any examination which the applicant fails to pass. However, if an applicant notifies the FAA at least one week before a scheduled examination that he wishes it cancelled, the FAA will refund the fee payment after deducting a minimal service charge to cover the cost of processing the application.

In the case of repair station certificates, applicants will submit as prepayment the costs required for 25 hours of technical activity and 7.5 hours of clerical activity for original certification or approval of a change of location or housing of facilities, or 10 hours of technical activity and 3 hours of clerical

proposal to amend § 65.15a is withdrawn.

Analysis of Comments

The FAA received 39 comments in response to Notice 81–12, 29 of which originated from the same pilot school in Belgium. Most of these comments, particularly those originating from the Belgian pilot school, argue that the proposed 2-year renewal requirement would inhibit the safe expansion of aviation in many parts of the world by denying FAA airman certificates to many foreign nationals overseas who may not be able to demonstrate periodically that they are operating or assuring the continued airworthiness of U.S.-registered aircraft. These commenters further argue that, as a result, aviation safety would suffer, the world market for aviation products and services would decrease, and most important, the current orientation of many pilots toward U.S. products and services would be substantially reduced.

Regarding this latter effect, the commenters argue the proposed 2-year renewal requirement would decrease U.S. general aviation exports by reducing the number of pilots trained on U.S. equipment. As one commenter states, ''Foreign pilots trained on U.S.-aircraft will develop U.S.-brand loyalty, which would reflect when purchasing aircraft in their native countries'' (sic). Those foreign nationals holding FAA flight instructor certificates apparently feel that the inability of some foreign nationals to meet the continuing need requirement would cause them to seek training from foreign-certificated flight instructors who use foreign-manufactured equipment and related training aides instead of FAA-certificated instructors using U.S.-manufactured equipment and related training aides.

Other commenters disagree with the proposed renewal requirement as a safety surveillance measure as it applies to airman certificates issued under Parts 61 and 63. One commenter points out that the FAA's current biennial flight review and instrument competency checks fulfill the requirement for safety surveillance and that a proposed 24-month term for a new license would appear to be a duplication of the biennial flight review.

The FAA believes that although these comments have merit as they apply to certification under Part 61, similar surveillance does not exist for airmen certificated under Parts 63 and 65. This amendment would have ensured greater surveillance of operations involving U.S.-registered aircraft operating outside the United States. However, unless and until it is determined that foreign nationals should be required to demonstrate a need for certification on a periodic basis, the FAA does not believe it appropriate to institute the biennial renewal requirement. Therefore, the proposal is withdrawn at this time.

Other commenters point out that at many overseas locations served by U.S. air carriers there is no FAA-certificated repair station and that it is financially advantageous for U.S. air carriers to use resident foreign nationals who are FAA-certificated mechanics rather than incur the considerably higher costs of stationing FAA-certificated U.S. citizens at these locations. Finally, they indicate that many foreign nationals may find it difficult to pay the $400 fee for original airframe mechanic certification and be deterred from applying.

Current FAA-certificated mechanics will not be required to pay the fee for a mechanic certificate or the fee for an inspection authorization certificate. While the costs of initial certification of new applicants may have to be borne directly or indirectly by the U.S. employer, the potential cost on U.S. air carriers is minimal when compared to either their total overseas maintenance costs or the costs of stationing FAA-certificated U.S. citizens overseas. Furthermore, the need for cost recovery and fiscal responsibility in government far outweighs this impact.

The FAA also considered the possibility that U.S. citizens, such as those providing humanitarian or religious services in remote overseas locations, could be impacted negatively if these proposed fees deter foreign nationals from applying for original FAA mechanic certificates. The FAA does not expect foreign nationals to be deterred from applying. The employment value of certification to the foreign mechanic far outweighs the cost of this fee, and the value of the services provided U.S. citizens far outweighs whatever small percentage of the certification cost is passed on to them. Moreover, many

also be included into the fee for an initial certificate issued under §§ 61.75, 61.77, 63.23, and 63.42 if the applicant presents such a medical certificate as evidence of meeting the medical standards for the foreign certificate upon which the application is based.

In keeping with the decision to remove any fee collection responsibility from AME's overseas applications for students pilot certificates must now be made directly to an FAA Flight Standards Office or to a Designated FAA Examiner and cannot be made to an AME. The administrative procedures of § 61.85 governing applications for student pilot certificates therefore have been amended to cover only applications made within the United States.

The Amendment

Accordingly, Parts 61, 63, 65, 67, 145, and 187 of the Federal Aviation Regulations (14 CFR Parts 61, 63, 65, 67, 145, and 187) are amended, effective October 18, 1982.

(Secs. 313, 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title V, Independent Offices Appropriations Act of 1952 (31 U.S.C. 483(a)); Sec. 28, International Air Transportation Competition Act of 1979 (49 U.S.C. 1159(b)).)

NOTE—Since compliance with these amendments will have only a minimal cost impact on the maintenance of U.S.-registered aircraft overseas and will not otherwise impose any cost or other economic burden on U.S. citizens, it has been determined that they are not major regulations under Executive Order 12291 and, for the same reason, it is certified that, under the criteria of the Regulatory Flexibility Act, they will not have a significant economic impact on a substantial number of small entities. The FAA has determined that this document involves regulations which are not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact on U.S. citizens of the regulations is no minimal that they do not require an evaluation.

Amendment 67–13

Organizational Changes and Delegations of Authority

Adopted: September 15, 1989 **Effective: October 25, 1989**

(Published in 54 FR 39288, September 25, 1989)

SUMMARY: This amendment adopts changes to office titles and certain terminology in the regulations that were affected by a recent agencywide reorganization. These changes are being made to reflect delegations of authority that were changed, as well as offices that were renamed or abolished and replaced with new office designations. These changes are necessary to make the regulations consistent with the current agency structure.

FOR FURTHER INFORMATION CONTACT: Jean Casciano, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; Telephone (202) 267–9683.

SUPPLEMENTARY INFORMATION

Background

On July 1, 1988, the FAA underwent a far-reaching reorganization that affected both headquarters and regional offices. The most significant change is that certain Regional Divisions and Offices, which formerly reported to the Regional Director, are now under ''straight line'' authority, meaning that these units within each Regional Office report to the appropriate Associate Administrator (or Chief Counsel) in charge of the function performed by that unit.

There will be no increase or decrease in paperwork requirements as a result of these amendments, since the changes are completely editorial in nature.

Good Cause Justification for Immediate Adoption

The amendment is needed to avoid possible confusion about the FAA reorganization and to hasten the effective implementation of the reorganization. In view of the need to expedite these changes, and because the amendment is editorial in nature and would impose no additional burden on the public, I find that notice and opportunity for public comment adopting this amendment is unnecessary.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the National government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves an amendment that imposes no additional burden on any person. Accordingly, it has been determined that: The action does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and because it is of editorial nature, no impact is expected to result and a full regulatory evaluation is not required. In addition, the FAA certifies that this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends the Federal Aviation Regulations (14 CFR Chapter I) effective October 25, 1989.

The authority citation for Part 67 continues to read as follows:

Authority: Secs. 313(a), 314, 601, 607, 72 Stat. 752; 49 U.S.C. 1354(a), 1355, 1421, and 1427.

Amendment 67–14

Pilots Convicted of Alcohol- or Drug-Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedures

Adopted: July 26, 1990 **Effective: November 29, 1990**

(Published in 55 FR 31300, August 1, 1990)

SUMMARY: This final rule sets forth regulations under which the FAA may deny an application for, and suspend or revoke, an airman certificate or rating if an individual has had two or more alcohol- or drug-related motor vehicle convictions or state motor vehicle administrative actions within a 3-year period (motor vehicle actions). The rule requires pilots to report to the FAA in Oklahoma City, Oklahoma, all alcohol- or drug-related motor vehicle convictions or state motor vehicle administrative actions that occur after the effective date of the final rule. The rule also amends the FAA's medical certification rules to include an "express consent" provision that authorizes the FAA to obtain information from the National Driver Register.

SUPPLEMENTARY INFORMATION:

Background

General Statement

The Federal Aviation Regulations (FAR) have addressed the issues of alcohol and drug use by an aircraft crewmember for many years. Section 91.11 of the FAR, for example, provides for certificate action against a person who acts, or attempts to act, as a crewmember of a civil aircraft within 8 hours after consumption of an alcoholic beverage; while under the influence of alcohol; while using any drug that affects the person's faculties in any way contrary to safety; or while having 0.04 percent by weight or more alcohol in the blood. Moreover, the FAA's strong interest in ensuring that airmen are not alcohol or drug dependent is demonstrated by the medical standards contained in Part 67. This rule will supplement, not replace, the current regulations. It is intended to implement measures to further ensure the safety of air commerce. This will be accomplished by identifying and removing from airspace those persons who may commit unsafe acts in an aircraft because of a disregard for certain safety regulations; by identifying those persons who fail to report violations of specific safety regulations to the FAA as required; and by providing a means for verification of information or omission of information required to be reported on the application for airman medical certification.

Regulatory History

The FAA issued a notice of proposed rulemaking (NPRM) concerning pilots convicted of alcohol- or drug-related motor vehicle offenses or subject to state motor vehicle administrative procedures on May 11, 1989 (54 FR 21580; May 18, 1989). This NPRM was issued in part to respond to the results of an audit of the FAA's airman medical certification program by the Office of the Inspector General (OIG) of the U.S. Department of Transportation (DOT) released on February 17, 1987. The OIG evaluated the procedures used by the FAA to determine if pilots applying for medical certification had reported alcohol- or drug-related motor vehicle convictions on the FAA medical application form. This information and other historical data are required of applicants for medical certification to assist the agency in determining their physical and psychological fitness to safely operate an aircraft.

The OIG used three automated files to conduct its audit: (1) An extract from a state driver licensing file on alcohol- and drug-related motor vehicle offenses; (2) an extract from the National Driver Register (NDR); and (3) the FAA's airman medical file (the Automated Medical Certification Data Base). The OIG used these files to perform two comparisons for the audit. First, the OIG compared the FAA's medical file and the state records of alcohol- and drug-related traffic offenses. This comparison showed that 1,584 of the active pilots (3.4 percent) who held a driver's license issued by the state had at least one driving-while-intoxicated (DWI) or driving-under-the influence (DUI) conviction. Of these pilots, 1,124 pilots (71 percent) did not report this information to the FAA.

The OIG also compared the FAA's medical file with the NDR records for individuals whose driver's licenses had been suspended or revoked based on alcohol- or drug-related traffic offenses. This comparison disclosed that the driver licenses of approximately 1,300 of the 711,648 active airmen (1.45 percent) had been suspended or revoked for DWI or DUI offenses within the past seven years. Of these pilots 7,850 pilots (76 percent) failed to report these motor vehicle convictions to the FAA on their medical applications. The National Driver Register Act of 1982 (NDR Act) contains statutory restrictions regarding access and use of NDR information. Thus, the OIG collected only statistical data from the NDR and did not obtain the names of specific airmen during the audit.

After the audit report was released, the OIG announced its intention to conduct two computer matches as part of an investigative effort to gather specific, detailed information (52 FR 5374; February 20, 1987) (52 FR 8545; March 18, 1987). For the first match, the OIG matched the FAA's airman medical file with certain identification records of criminal history information of the Federal Bureau of Investigation (FBI). For the second match, the OIG matched FAA's Automated Medical Certification Data Base with the State of Florida Department of Highway Safety and Motor Vehicle driver licensing records for alcohol-

changes to the NDR statute that would give the FAA access to NDR information. The National Transportation Safety Board (NTSB) and the U.S. General Accounting Office (GAO) supported these recommendations. On December 30, 1987, the President signed legislation amending the NDR Act to add section 206(b)(3) (Pub. L. 100–223; 101 Stat. 1525). In part, that statutory amendment authorizes the FAA to receive information from the NDR regarding motor vehicle actions that pertain to any individual who has applied for an airman medical certificate.

The amendment to the NDR Act states:

> Any individual who has applied for or received an airman's certificate may request the chief driver licensing official of a State to transmit information regarding the individual * * * to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information and shall make such information available to the individual for review and written comment. The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request.'' [23 U.S.C. 401 NOTE]

On October 22, 1987, the FAA issued a notice (52 FR 41557; October 29, 1987) of a special enforcement policy regarding applicants for a medical certificate who have provided incorrect information about traffic convictions on a medical application form. In order to encourage compliance with the reporting requirement on the medical certificate application form, and to ensure that the FAA's records are accurate and complete, the FAA afforded airmen an opportunity to avoid FAA enforcement action based on falsification of their medical certificate application if they volunteered the corrected information to the FAA before January 1, 1988. As of that date, the FAA may take enforcement action, based on falsification of the medical certificate application, against those persons who had not provided corrected information. This includes those persons identified and referred by the OIG and those persons discovered through the FAA investigative process. However, even after January 1, 1988, the determined not to take enforcement action against those persons who submitted corrected information prior to the FAA obtaining that information from other sources. On October 27, 1988, the FAA issued a notice announcing complete termination of this so-called ''amnesty'' policy, effective December 1, 1988 (53 FR 44166; November 1, 1988). Therefore, after November 30, 1988, voluntary submission of corrected information does not preclude FAA enforcement action.

The FAA received about 11,300 letters from pilots disclosing offenses previously unreported on their medical application forms in response to the October 1987 notice. The ''disclosure'' letters served in most cases to secure amnesty from FAA enforcement action for these airmen as related to the falsification issue. The disclosures, however, did not preclude the FAA from denying an application or suspending or revoking a medical certificate, as appropriate, after evaluating the disclosures and determining tat an airman was medically not qualified.

Airmen whose traffic offenses suggested the need for further medical evaluation were asked to provide the agency with all court or administrative records associated with the offenses, or records associated with any care or treatment for substance abuse or related disorders. They also were asked to undergo specialized medical evaluations, if appropriate. The airman medical files of the individuals who submitted the information were updated and reevaluated in light of the new of information to ascertain whether those airmen continued to be medically qualified to operate an aircraft in a safe manner.

Since October of 1987, the FAA has reviewed approximately 24,000 airman medical files as a result of letters from pilots disclosing offenses previously unreported and of new applications for medical certificates indicating DWI or DUI convictions. The majority of the pilots whose files were reviewed

action based on falsification.

Discussion of Comments

General statement

The FAA received 84 timely comments in response to the May 18, 1989, NPRM. Based on its analysis and review of these public comments, the FAA is adopting some of the proposed revisions to Parts 61 and 67, with changes as described. A discussion of the comments follows.

In general, the majority of the comments support the safety goal of the proposed rule. Those objecting say that the methods proposed by the FAA in the NPRM do not contribute to a safer aviation community, but rather place serious regulatory burdens on those airmen who are law-abiding. Among the commenters are six organizations representing airline and pilot associations; on Federal agency, the NTSB; and seventy-seven individual members of the flying and non-flying public. The organizations include the Air Line Pilots Association (ALPA), The Aircraft Owners and Pilots Association (AOPA), the Experimental Aircraft Association (EAA), the Helicopter Association International (HAI), the National Air Transportation Association (NATA), and the National Business Aircraft Association, Inc. (NBAA).

Specific comments

Existing laws and regulations

Nine commenters note that the FAA already has safety and enforcement regulations in existence. They believe the FAA should enforce rather than promulgate additional regulations. In the words of one respondent, ''[t]he rules of the road are not the same as the rules of the air . . . Alcohol is allowed up to a certain amount, while driving a car. In the case of operating an airplane, no alcohol at all is the regulation.''

The FAA agrees with the need to enforce existing safety regulations. Several commenters indicate that the rules dictating ''within 8 hours'' or ''under the influence'' are already in place and are designed to protect the public from intoxicated pilots; the agency devotes considerable resources to this purpose. However, the previously described OIG audit shows that although only a small percentage of the aviation community may be involved, there are airmen who do not comply with the existing reporting requirements. There also are some airmen who have a record of multiple convictions for DWI and DUI, indicating that not all pilots show an appropriate concern for critical highway safety requirements. It is these pilots who are the focus of the detection mechanisms established by this rule.

Lack of supportive evidence of correlation

Of concern to twenty-six commenters, including all six organizations, is the lack of statistical data to support the proposals presented in the NPRM. They note the lack of a proven correlation between alcohol and drug convictions while driving a motor vehicle and alcohol- and drug-related accidents while flying an aircraft.

The FAA made no attempt to obscure the lack of evidence correlating alcohol- or drug-related motor vehicle actions with substance abuse-related accidents or incidents while operating an aircraft. The FAA notes, however, that from 1978 to 1987, 6.0 percent of general aviation pilots killed in aviation accidents had a blood alcohol level of 0.04 percent or more. During that same period, 11,213 people died in general aviation accidents. If the rule were to result in the saving of a few lives, the potential benefits of the rule would exceed its potential cost.

If, for example, 6.0 percent of average annual deaths in general aviation accidents occurred in circumstances where alcohol may have been a contributing factor and the rule were only 1 percent effective in preventing such accidental deaths, then the benefits of the rule (given the values currently ascribed to a statistical life) would exceed its potential costs. FAA believes, in fact, that the rule will be significantly more effective than 1 percent so that potential benefits are likely to significantly exceed costs.

highways. The agency believes that an individual whose conduct results in multiple alcohol- or drug-related motor vehicle actions within a 3-year period should be subject to enforcement action with the potential for removal from the flying environment.

Difference between piloting an aircraft and driving an automobile

Numerous objections to the proposals in the NPRM assert that there is little or no relationship between the task of piloting an aircraft and driving an automobile. The commenters contend that training and the environment surrounding the operations of motor vehicles and aircraft are drastically different and should not be subject to similar regulations. The commenters state that pilots are carefully selected and subject to different medical requirements and training than those licensed solely to operate motor vehicles, and, therefore, cannot be so directly equated.

The FAA is well aware that there are differences in training for motor vehicle and aircraft operation. However, driving an automobile on our nation's roads requires some type of state medical examination, at a minimum an eye examination, as well as a statement of health from the applicant or driver. Commercial drivers usually undergo medical examinations while private automobile drivers usually must self-certify and take a vision test. Applicants must respond to questions concerning their prior driving records and medical status and must also demonstrate practical driving skills. These conditions have been an acceptable part of obtaining a driver's license for the vast majority of adult Americans who undergo this procedure regularly. Similar procedures are required for those choosing to pilot aircraft.

The FAA agrees with the commenters that a higher level of skill and care must be exercised by those piloting aircraft in the interest of the public. In comparison to driving, aviation-related errors in judgment can be more serious; there is potential for greater property damage; and a pilot, particularly when engaged in commercial aviation, is responsible for the safety of passengers as well as for others both in the air and on the ground.

Legal concerns

Numerous commenters raise issues that they believe are legal in nature. Three commenters argue that the proposed regulations overstep FAA's statutory authority, which involves the safety of flying. They believe that FAA regulations should address only the act of flying while under the influence of alcohol or drugs.

The FAA does not agree with these commenters. Information about a person's driving record, including DWI and DUI offenses, has long been required as a part of the application process for airman medical certification. Moreover, the FAA believes that conduct outside the time actually spent flying can be relevant to a determination of a person's capability to pilot an aircraft. Multiple driving convictions or administrative actions involving alcohol or drugs have relevance to the issues of judgment, compliance disposition, and medical qualifications.

Twenty-three commenters, including three organizations, oppose the NPRM on the basis of its intrusive nature. They argue repeatedly that since there is no statistical evidence to support the linking of a pilot's past driving record with his or her potential for alcohol or drug use in the cockpit, very little relevance exists for requiring access to the records in the NDR. As a result, it is argued that such a requirement by the FAA is, by nature, an invasion of privacy. Several commenters say that until definite proof is presented linking the two types of operation, no justification exists for the proposals.

The FAA acknowledges that there may be an impact on the privacy of individuals by virtue of obtaining the information in the NDR, but the impact is neither large nor unwarranted. First, most information in the NDR is public record information from the participating states. Second, the medical application already requires an applicant to reveal his or her driving record. Therefore, accessing the information in the NDR should not result in developing any new information about the applicant. Third, Congress passed legislation explicitly granting the FAA the authority to receive information contained in the NDR. The legislation contains limitations that safeguard the privacy interests of individuals whose NDR records are disclosed to the FAA.

U.S.C. 401 note]

Numerous commenters said that pilots' constitutional rights would be violated because there is no opportunity for a hearing or appeal following ''automatic'' certificate action for two DWI convictions.

The FAA does not agree. This rule provides that multiple motor vehicle actions against a person within a 3-year period are grounds for suspension or revocation of any certificate or rating issued to that person under Part 61. There is no ''automatic certificate action.'' Rather, the FAA will initiate appropriate enforcement action, and the FAA's normal enforcement procedures will be followed. An airman will be afforded all of the procedural safeguards that are available generally in FAA certificate action proceedings. These proceedings could include notice of proposed certificate action and, possibly, a hearing before an administrative law judge, an appeal to the National Transportation Safety Board and, finally, judicial review of the determination.

Three commenters, including two organizations, state that retroactive enforcement is unfair. They note that pilots would have exercised more caution against receiving a DWI or DUI conviction if they had known such convictions might affect their pilots' licenses.

The FAA recognizes this concern. Under the proposed rule, at least one motor vehicle action would have had to occur after the effective date of the final rule. However, possible loss of an airman certificate is not the reason a person should comply with state laws related to alcohol or drug use in operation of a motor vehicle. Those alcohol- and drug-related highway safety laws should be adhered to because they are the law. The failure to comply has serious adverse consequences. Alcohol- and drug-related traffic accidents result in the deaths of thousands of Americans every year. While other traffic offenses may result in accidents, alcohol and drug impairment clearly pose the greatest threat and are the result of conscious decisions. Motor vehicle actions reflect a lack of safety awareness, a lack of good judgment, and an indifference to the adherence to established requirements of law. Nevertheless, the FAA recognizes that directly linking an individual's compliance disposition toward critical safety requirements in the driving context to possible certificate action against that individual's pilot certificate is a fundamental change. The FAA agrees that the correlation should be prospective and has so provided in this final rule. To the extent that the rule has a deterrent effect, resulting in a proper compliance attitude toward the FAR, the rule will have achieved its goal.

Ten commenters, including three organizations, suggest that, in the words of one individual, the ''rule is using a flawed base for its determinations'' because DWI or DUI convictions are based on substantially different state laws. These differences include varying permissible blood alcohol concentrations (BAC) and differing state procedures for those charged with DWI or DUI offenses. Therefore, these commenters argue that the proposed rule could not be applied equally to all airmen.

The FAA is aware of impairment level and procedural differences among the states. However, these differences in state laws and procedures, which are a part of our Federal system, are not a reason for inaction. Every person driving an automobile is required to obey the laws of the state in which the vehicle is being operated. The fact that state laws differ is not a defense to charges of violating a law, nor do state law differences undermine a rule that uses convictions or state administrative actions under those varying laws. In the NPRM, the FAA requested specific comments on whether to treat state judicial proceedings involving ''probation before judgment'' and ''deferred adjudication'' as a ''motor vehicle action'' even though these proceedings may not result in a permanent record of conviction. The FAA agrees with a commenter who recommends that procedures such as probation before judgment and deferred adjudication not be considered motor vehicle actions. Further evaluation is needed of the possible impact on state procedures of including judicial proceedings that do not result in a conviction as a motor vehicle action under the rule. As defined in the rule, a motor vehicle action is a conviction; license cancellation, suspension, or revocation; or the denial of an application for a license to operate a motor vehicle by a state for a cause related to the operation of a motor vehicle while intoxicated by alcohol or a drug, while impaired by alcohol or a drug, or while under the influence of alcohol or a drug.

final rule in light of the Whalen case.

The FAA is not persuaded that the Whalen case precludes promulgating a final rule in this rulemaking. Since the decision was vacated it has no precedential value. Moreover, there are significant distinctions between the FHWA rule and that agency's statutory authority and the FAA's rule and its statutory authority. The FAA believes that the Whalen rationale is no longer persuasive and that there have been significant changes in the recognition of the dangers of driving while impaired by drugs or alcohol and the reasonable inferences that can be drawn from such conduct about a person's judgment and compliance disposition. The effects of substance abuse on the safety of transportation are clear and the courts have recognized the authority of government agencies to take action to prevent these effects. Therefore, the FAA is not persuaded that a court today would reach the same conclusion that was reached by the court in the *Whalen* case.

Self-policing

Eighteen commenters, including two organizations, believe that only a small segment of the flying population abuses drugs or alcohol. The commenters argue that the overwhelming majority of the pilot population is already doing an excellent job of self-policing; thus this rule is unnecessary.

The FAA agrees that the majority of the pilot community complies with the regulations by self-policing. The FAA accepts, and has so stated, that only a small percentage of the airman population may be affected by the abuse of alcohol or drugs. However a single impaired or intoxicated pilot could cause extensive and wide-spread damage to the public through loss of life or property damage. The FAA believes that this regulation will encourage greater self-policing and intends it to be primarily corrective in nature, assisting the agency, through deterrence, in attaining its primary mission, that of aviation safety.

Enforcement

Nineteen commenters say that they believe the FAA has become irrationally harsh in its enforcement policy, not improving compliance, and damaging the FAA's credibility. They state that this rule is one more step in this onerous direction.

The FAA's compliance and enforcement programs have been modified recently. The opinions of the flying population, particularly general aviation pilots, have been taken into consideration in the agency's on-going effort to maintain a high level of safety. There will be continued insistence on total compliance with the rules and regulations that have made our aviation system as safe as it is. But agency responsibility to enforce the rules will not prevent the FAA from addressing the aviation community's concerns and enhancing the FAA's responsiveness to the users of the system. The goal is to be firm but fair. The FAA intends to use a number of tools, including good communications, training, education, counseling, and finally enforcement, to achieve the primary goal of safety.

The FAA has become aware that there is a good deal of misunderstanding about the enforcement process, leading to a sense of mistrust. Therefore the new enforcement procedures will be more flexible, with greater emphasis on promoting compliance through education and open communication. The FAA will consider the need for simplification in some of the regulations to enhance understanding and promote compliance.

Nevertheless, clear-cut violations of regulations and a lack of compliance disposition must be handled decisively in the interest of promoting safety, particularly in such safety-sensitive areas as alcohol and drug abuse. The FAA regards violations in these areas as serious and will continue to expect strict adherence to the regulations. As stated in a recent FAA notice of enforcement policy (54 FR 15144; April 14, 1989), failure to disclose DWI or DUI convictions when applying for an airman medical certificate may be a violation of § 67.20 of the FAR. In pertinent part, that section provides that no person may make or cause to be made any fraudulent or intentionally false statement on any application

of this rule. Seven commenters and one organization believe that the regulation should be more stringent, to include such issues as suspension of a pilot's license for a single DWI conviction.

The FAA considered basing enforcement on a single-drug or alcohol-related motor vehicle action, but chose not to do so because there are existing procedures that call for the review of any medical application in which the applicant discloses a past motor vehicle action. This review could lead to further action resulting in the denial, suspension, or revocation of a medical certificate. This review takes place at the time of the initial submission of a medical application, and is performed by the Aviation Medical Examiner (AME), followed by an additional agency review. Regarding the falsification issue, there is an existing FAR (§ 67.20) governing the providing of accurate information to the FAA, and Federal legislation exists (18 U.S.C. 1001) to address the criminal aspect of providing false information.

On the other hand, 13 commenters objected to the NPRM, making the argument that the ''punishment'' resulting from this rule is harsh and excessive. An airman certificate is required of all pilots; in the case of professional pilots, suspension or revocation would deprive them of their livelihood. This treatment, according to the arguments of the commenters, is too severe in comparison to other industries.

The FAA agrees that certificate suspension or revocation is a severe action, but one that fits the seriousness of the violation involved. The intent of these regulations is primarily corrective in nature, and to achieve the FAA's mandate to ensure safety in aviation. Therefore, the FAA will take appropriate enforcement action where pilots have violated laws related to substance use or abuse while operating a motor vehicle.

One organization states that virtually every pilot subject to an alcohol-or drug-related motor vehicle action will challenge any prosecution to the fullest extent of the law. While the FAA has no reason to doubt the comment's assertion there are ample reasons to contest a DWI or DUI charge apart from the action being taken in this rule. The decision to challenge a criminal or administrative charge is an option available to any individual in our society. If a pilot's record is reviewed pursuant to § 61.15 for possible denial of an application for a certificate or a rating, or suspension or revocation of an existing airman certificate or a rating, it is because the pilot has violated an FAA regulation. The opportunity for due process, as always, is available both in a state's criminal and administrative proceedings and the FAA's administrative proceedings.

Medical examination form

As adopted, this rule amends § 61.15 to require a pilot to report to the agency's Civil Aviation Security Division in Oklahoma City each alcohol-or drug-related motor vehicle conviction or administrative action that occurs after the effective date of the rule. This reporting requirement is unrelated to the existing requirement that a pilot fully and completely answer all questions related to traffic and other convictions on an *Application for an Airman Medical Certificate or Airman Medical and Student Pilot Certificate,* FAA Form 8500–8. One commenter contends that this requirement to describe any previous record or convictions should not be necessary as he is ''. . . at a loss to see the relevance between an airman making an illegal U-turn and his/her medical history.

The FAA considers an airman's conviction history pertinent to the medical certification process. An Aviation Medical Examiner (AME) uses this information, combined with the physical examination findings, as an important diagnostic tool. A history of traffic or other convictions may indicate a medical problem or may lead to further inquiry regarding an applicant's medical qualifications. While an illegal U-turn conviction, in and of itself, may not alert an AME to a possible medical problem, multiple traffic convictions might. Any reportable conviction information, coupled with a DWI or DUI conviction, could raise a question as to the applicant's fitness to perform the duties or exercise the privileges of an airman certificate. Given all the information, an AME and the agency can more accurately assess a pattern of behavior that may be indicative of a personality disorder that has repeatedly manifested itself by overt acts and, thus, may warrant denial of an application for, or suspension or revocation of, an airman's medical certificate.

so successfully using the current form. The FAA, however, recognizes the merit of the commenters' desire to improve FAA Form 8500–8 to achieve an even higher degree of compliance and clarity and, thus, to lessen the opportunity for error.

At this time, the FAA is revising the current form for consistency with the amendment to Part 67 as adopted in this final rule. The express consent provision is added to the form and is placed above the space provided for the applicant's signature. This provision allows the FAA to receive information about the applicant that has been reported to the NDR.

Along with the addition of the express consent provision, the agency is taking the opportunity to incorporate those suggestions that it deems will enhance the appearance and clarity of the form. Changes, in part, include revising the instructions for filling out the form; increasing the type-size, where possible; moving the conviction items to a more prominent location within the medical history section; and updating the portion that deals with penalties for falsification. The agency believes that these revisions will enable more applicants for an airman medical certificate to provide the required information accurately and with less effort.

Rehabilitation and education

Several commenters believe there should be provisions made for rehabilitation and education. According to the commenters, the time and effort which the FAA would spend with this program would be better spent in developing and encouraging rehabilitation programs. The FAA is described by the commenters as more concerned with taking punitive measures taken to remove the offending individuals from the aviation community than with taking a more humane, restorative approach of "compassionate intervention and rehabilitation."

The FAA accepts and endorses education and rehabilitation as important and necessary facets of any drug or alcohol program. In fact, the agency has an active and successful employee assistance program (EAP). The FAA encourages the creation and use of industry EAPs. The FAA also encourages individuals to seek help if they have a substance abuse problem. Community health organizations generally have programs to assist such individuals. However, the primary mission of the FAA is aviation safety and the identification of associated safety problems.

Paperwork burden

Four commenters say that this regulation would cause an undue paperwork burden on the FAA.

There admittedly will be an increase in workload among the various offices responsible for implementation of this rule. However, the agency believes that the potential for increased safety in the aviation community justifies the additional burden. Every effort will be made, however, to reduce the burden of the agency's new recordkeeping requirements. For example, in revising the application for medical certification, FAA Form 8500–8, the NDR access express consent provision will be printed on the form itself, thus eliminating an extra document that must be retained by the FAA. A detailed listing of the reporting and recordkeeping requirements can be found in Part IV of the Regulatory Evaluation which is contained in the docket.

Insufficient reporting time

Several respondents note that pilots should be given more than 60 days to report past alcohol- or drug-related driving convictions and administrative actions. They contend that 60 days from the effective date of the final rule does not allow sufficient time for a pilot to learn of the promulgation of the regulation and then to report past motor vehicle actions. One organization suggests pilots might find it necessary to contact state officials, determine the nature of certain prior state actions, and then seek counsel on whether reporting of a specific action is required under the regulations.

Although the NPRM proposed the reporting of each alcohol- or drug-related motor vehicle action received in the 3-year period prior to the rule, this provision is not being adopted. The final rule requires

The NPRM proposed amending § 61.23 by adding new paragraph (d) to change the duration of an airman medical certificate. The proposed amendment provided that any medical certificate would expire automatically on the 61st day after a pilot was convicted of, or a state had taken administrative action on, a single alcohol- or drug-related motor vehicle violation, unless the medical certificate would otherwise expire before the 61st day. The pilot could continue to operate an aircraft for 60 days after the date of conviction or until expiration of the certificate, if earlier, as long as the pilot was not otherwise disqualified under Part 67. The pilot could schedule and complete a new medical examination anytime after the date of the motor vehicle action. If the pilot chose to reapply within 60 days after the conviction, and, if based on this examination and the agency's review of the conviction or administrative action, the pilot continued to meet the medical standards of Part 67, then he or she would be issued a new medical certificate and could continue to pilot an aircraft without interruption.

In addition, the NPRM proposed in new paragraph (d)(1) that each applicant be required to present to the AME, at the time of application and medical examination for a new certificate, any documents that substantiated participation in any court-ordered substance abuse treatment plan, and in new paragraph (d)(2), that each subject applicant be required to show the AME evidence of compliance with any other court-ordered program related to the conviction, such as community-service.

Numerous commenters contend that no measure should be taken to deny an application for, or suspend or revoke, an airman's medical certificate for a single DWI or DUI conviction or action but, rather, the airman should continue to be required to report convictions on the medical application from as a basis for further medical evaluation. The commenters support the FAA's efforts to deny medical certification to airmen with disqualifying alcohol- or drug-related medical conditions, but argue that a medical diagnosis seems unlikely based solely on a single alcohol- or drug-related motor vehicle conviction or state administrative action. Still others question the premise that, based on a single DWI or DUI action, the agency would discover pilots with alcohol or drug problems. These commenters believe that if the agency considered this proposition likely, the proposed amendment to § 61.23 would not have been drafted to allow such individuals the latitude to continue to pilot an aircraft for up to 60 days without having to undergo a medical evaluation.

Some commenters have taken the FAA to task over the requirement in the proposed rule to have the AME evaluate court and other adminstrative records, presented by the examinee, to determine compliance with any court-ordered program related to a conviction. These court-imposed programs could vary from attendance in a substance-abuse treatment program to participation in a community service program. Other commenters, themselves physicians, also express grave reservations over this issue. They believe that the AME would be placed in the unfamiliar role of reviewer and verifier of legal documents, and would further have to attempt to determine if the sanctions imposed had been, or were being, discharged accordingly.

The FAA has considered the commenters' views regarding the likelihood of obtaining significant results from requiring a pilot to reapply for a medical certificate after a single motor vehicle action (DWI, DUI, or state administrative action). The agency agrees that only rarely would a medical examination triggered as a result of a single motor vehicle action provide a basis for a diagnosis of alcoholism or drug dependency. The additional examinations that would have been triggered by the proposed requirement would be a significant increase in workload to the agency and an expenditure of community medical resources; conservatively, the FAA estimates that 7,000 additional applications for medical certification would be processed annually. Also of consequence would be the fees to be paid by the airmen in compliance with the reexamination requirement. If the findings from the additional examinations prove minimal, as expected, then imposing these requirements appears to be unwarranted.

The FAA has further determined that the provisions as proposed in § 61.23(d)(2) are beyond the scope of Current AMEs' training or expertise. It is FAA policy that every DWI or DUI conviction or state motor vehicle administrative action noted on an application for an airman medical certificate be reviewed by the Aeromedical Certification Division of the Civil Aeromedical Institute (CAMI) for

in a review of that pilot's medical file to determine if there is a basis for reconsideration of the individual's eligibility for medical certification.

The FAA is confident that the early identification mechanisms currently in place, the new reporting requirement, and the scheduled crosscheck of the airman medical records with the NDR, are sufficient to maintain the requisite high level of safety for the aviation community and the traveling public. Thus, the FAA has concluded that limiting the duration of a medical certificate after a single motor vehicle action is not warranted.

Costs

Four commenters, including one organization, raise economic issues. Three say that the administrative paperwork would not be ''nominal'' and that the FAA should attempt to quantify these costs. The FAA agrees, and has specified the step-by-step process, with the costs involved in each step, in Section IV of the Regulatory Evaluation.

Two of the commenters say that the loss of pilot employment or pay resulting from this rule should be considered as a cost of this rule. The FAA disagrees because this rule merely identifies those pilots already having received alcohol- or drug-related motor vehicle convictions or administrative actions. Any cost is related to these pilots' own actions rather than the FAA's actions.

One commenter notes that the FAA stated in the NPRM that the loss of employment is not a regulatory cost and ''that the proposed rules would not have a significant economic impact . . . on a substantial number of small entities.'' This commenter asked whether a pilot is considered a small entity. The quoted language is based on the Regulatory Flexibility Act of 1980 (RFA) and comes from the Regulatory Flexibility Determination section of the NPRM. The FAA is required to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The criteria for a ''substantial number of small entities'' is one-third of the small firms subject to the final rule, but no fewer than 11 firms. This commenter understood ''small entity'' to mean an individual pilot, instead of a small firm. A firm, regardless of size, is made up of employees. In this case, the small firm being referenced here is made up of pilots and other employees. The loss of employment for an individual pilot may or may not have a ''significant economic impact . . . on a substantial number of small entities.'' In this case, the FAA has determined that this rule would not have such an impact.

Section-by-section discussion of the rules

Several changes from the NPRM language have been made in the final rule. Some differences are intended to improve clarity; others are of a more substantive nature.

Section 61.15 Offenses involving alcohol or drugs.

Section 61.15(c) of the final rule has been modified to reflect that only motor vehicle actions that occur after the effective date of the rule must be reported to the FAA. The proposed rule had referenced reporting responsibility in the pilot's recent past as well as after the effective date. Reporting alcohol- or drug-related convictions or state motor vehicle administrative actions in the recent past is not a requirement of the final rule. This change is also reflected in paragraphs (d) and (e).

A modification was made to § 61.15(d) of the final rule to reflect that multiple motor vehicle actions as defined in the rule resulting from the same driving incident or factual circumstances will be viewed as one motor vehicle action for purposes of § 61.15(d). However, a pilot still must report each action to the FAA, regardless of whether it arises out of the same driving incident or factual circumstance. As part of the pilot's description of the action, the pilot should note that the action being reported is part of a single set of factual circumstances and reference any prior action arising out of the same facts.

The NPRM proposed amending § 61.23 by adding a new paragraph (d) to change the duration of an airman's medical certificate. This requirement has not been adopted in the final rule.

Section 67.3 Access to the National Driver Register.

Two minor changes were made to this section. First, the rule has been changed to clarify that a person desiring to review the NDR information must request that the Administrator make the information available. Second, additional language has been added to clarify that the consent authorizes the Administrator to request the chief driver licensing official of the state to transmit information contained in the NDR about the person to the Administrator. Finally, certain editorial changes in the final rule have been made for clarity.

Paperwork Reduction Act

Section 61.15(d) would require a pilot to report to the FAA each alcohol- or drug-related motor vehicle conviction and each alcohol- or drug-related state administrative action. Information collection requirements in the amendment to § 61.15(d) have been submitted for approval to the Office of Management and Budget (OMB) under the provisions of th Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Regulatory Evaluation Summary

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society for the regulatory changes outweigh the potential costs to society. The order also requires the preparation of a Regulatory Impact Analysis of all ''major'' rules except those responding to emergency situations or other narrowly-defined exigencies. A ''major'' rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

This final rule is determined not to be ''major'' as defined in the Executive Order, therefore a full Regulatory Impact Analysis evaluating alternative approaches is not required. A more concise Regulatory Evaluation has been prepared, however, which includes an analysis of the economic consequences of the regulation. This analysis has been included in the docket, and quantifies, to the extent practical, estimated costs as well as the anticipated benefits, and impacts.

A summary of the Regulatory Evaluation is contained in this section. For a more detailed analysis, the reader is referred to the full Evaluation contained in the docket.

The final rule establishes a basis for the denial of an application for a pilot certificate and a basis for the revocation or suspension of a pilot certificate for pilots convicted of alcohol- or drug-related motor vehicle offenses or for pilots penalized as a result of state administrative action for cause. Under this final rule, a pilot must report to the FAA any conviction or administrative action that occurs after the effective date of the rule. Failure to report even one conviction or administrative action to the FAA is grounds for denial of an application for an airman certification and grounds for suspension or revocation of a certificate issued under Part 61. This reporting requirement is distinct from the existing requirement to report traffic and other convictions on an application for an airman medical certificate.

The FAA's denial of an application and the suspension or revocation of an existing certificate will be based on two or more alcohol- or drug-related motor vehicle convictions, two or more administrative actions by a state for cause, or at least one conviction and one administrative action occurring within a 3-year period.

This final rule amends Section 61.15 of the Federal Aviation Regulations (FAR) and affects an estimated 752,000 individuals currently holding active medical certificate in conjunction with student, private, commercial, airline transport, glider-only, and lighter-than-air pilot certificates and ratings issued by the FAA. Promulgation of this final rule could result in the denial, revocation, or suspension of the privilege to operate an aircraft for an estimated 1,000 to 12,000 pilots annually. The costs of suspension or revocation of a certificate issued under Part 61 will be the negative economic impact associated

8, the *Application for Airman Medical Certificate or the Airman Medical and Student Pilot Certificate)* for use in searching for alcohol- or drug-related convictions or administrative actions reported to the National Driver Register (NDR). This consent will allow the FAA to query the NDR about every pilot who applies for an airman medical certificate.

Based on the requirements of the final rule, airmen will have 60 days to send a letter to the Civil Aviation Security Division (AAC–700) with their name, airman certificate number, and information about any DWI or DUI conviction or state administrative action acquired after the effective date of the rule.

Depending on the certificate held or the operations conducted, each pilot must have a physical examination every 6 months, 1 year, or 2 years; at that time, the following screening/checking process will begin for that pilot. An average of 10,000 pilots per week undergo FAA physicals. Thus, the FAA facility in Oklahoma City processes the 10,000 applications for medical certification per week. A tape with the pilot data will be sent each week, through the appropriate agencies, to the NDR. The NDR will match this tape against its register, and will create a tape of any pilot data entries that agree. This information will then be returned to the FAA, and will be used to obtain the necessary state driving records. The resulting data on the estimated 200 pilots per week will be compiled for comparison with medical history data and with the disclosures required for § 61.15.

The FAA expects that this rule will reduce the number of aviation accidents caused by pilots who may be impaired by alcohol or drugs during aircraft operations. However, the FAA has been unable to directly quantify the expected benefits of the final rule. Some observations can be made, however, regarding potential benefits. During the period from 1978 to 1987, 6.0 percent of general aviation pilots killed in aviation accidents had a blood alcohol level of at least 0.04 percent. During this same 10-year period, 11,213 people died in general aviation accidents. If 6.0 percent of these people died in accidents where the pilot was under the influence or impaired by alcohol, over 670 people died in accidents where alcohol may have been a contributing cause.

Based on this analysis, and using $4.4 million as the present value 10 year cost of the rule, the chart below shows the cost of saving one life as a function of the effectiveness of the rule in preventing accidents.

Effectiveness of rule (%)	Cost of Rule per life saved (Dollars)
1	$640,000
10	64,000
20	32,000
30	21,300
40	16,000
50	12,800
60	10,700
70	9,000
80	8,000
90	7,100
100	6,400

At this time, the FAA cannot accurately predict how effective the rule will be in preventing fatalities such as discussed above. Even if it proves to be only one percent effective, however, the cost per fatality prevented appears to be less than values currently ascribed to a statistical life. The FAA believes that the rule will be more effective than one percent and concludes that the potential benefits of the rule will exceed potential costs.

Four commenters raise economic issues based on the cost/benefit analysis in the Notice of Proposed Rulemaking (NPRM). A discussion of these comments is contained in the final Regulatory Evaluation contained in the docket and elsewhere in the preamble to the rule.

carrier having an airplane or airplanes with only 60 or fewer seats, and $95,800 per year for a scheduled carrier having an airplane with 61 or more seats.

The FAA has determined that the rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. The basis of this determination is the FAA's opinion that any adverse economic consequences associated with the loss of the privilege to operate an aircraft for aviation pilots convicted of alcohol- or drug-related motor vehicle offenses or penalized as a result of state administrative action for cause is the direct consequence of alcohol or drug use in connection with the operation of a motor vehicle and not as a result of the rule. Since there are minimal economic consequences due to the rule, the total costs that could be attributable to a significant number of small entities are below the threshold dollar limits.

Trade Impact Statement

This final rule will affect only those individuals who hold an FAA-issued airman certificate and, therefore, would have no impact on trade opportunities for U.S. firms doing business overseas or foreign firms doing business in the United States.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a major regulation under the criteria of Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been plaed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends Part 61 and Part 67 of the Federal Aviation Regulations (14 CFR Parts 61 and 67) effective November 29, 1990.

The authority citation for Part 67 is revised to read as follows:

Authority. 49 U.S.C. App. 1354(a), 1355, 1421, and 1427; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

issuing medical certificates for airmen.

§ 67.3 Access to the National Driver Register.

At the time of application for a certificate issued under this part, each person who applies for a medical certificate shall execute an express consent form authorizing the Administrator to request the chief driver licensing official of any state designated by the Administrator to transmit information contained in the National Driver Register about the person to the Administrator. The Administrator shall make information received from the National Driver Register, if any, available on request to the person for review and written comment.

(Amdt. 67–14, Eff. 11/29/90)

§ 67.11 Issue.

Except as provided in § 67.12, an applicant who meets the medical standards prescribed in this part, based on medical examination and evaluation of his history and condition, is entitled to an appropriate medical certificate.

(Amdt. 67–12, Eff. 10/18/82)

§ 67.12 Certification of foreign airmen.

A person who is neither a United States citizen nor a resident alien is issued a certificate under this part, outside the United States, only when the Administrator finds that the certificate is needed for operation of a U.S.-registered civil aircraft.

(Amdt. 67–12, Eff. 10/18/82)

or of at least 20/100 in each eye separately corrected to 20/20 or better with corrective lenses (glasses or contact lenses) in which case the applicant may be qualified only on the condition that he wears those corrective lenses while exercising the privileges of his airman certificate.

(2) Near vision of at least v=1.00 at 18 inches with each eye separately, with or without corrective glasses.

(3) Normal color vision.

(4) Normal fields of vision.

(5) No acute or chronic pathological condition of either eye or adenexae that might interfere with its proper function, might progress to that degree, or might be aggravated by flying.

(6) Bifoveal fixation and vergencephoria relationship sufficient to prevent a break in fusion under conditions that may reasonably occur in performing airman duties.

Tests for the factors named in paragraph (b)(6) of this section are not required except for applicants found to have more than one prism diopter of hyperphoria, six prism diopters of esophoria, or six prism diopters of exophoria. If these values are exceeded, the Federal Air Surgeon may require the applicant to be examined by a qualified eye specialist to determine if there is bifoveal fixation and adequate vergencephoria relationship. However, if the applicant is otherwise qualified, he is entitled to a medical certificate pending the results of the examination.

(c) Ear, nose, throat, and equilibrium:

(1) Ability to—

(i) Hear the whispered voice at a distance of at least 20 feet with each ear separately; or

eardrum.

(5) No disease or malformation of the nose or throat that might interfere with, or be aggravated by, flying.

(6) No disturbance in equilibrium.

(d) *Mental and neurologic*—(1) *Mental.* (i) No established medical history or clinical diagnosis of any of the following:

(*a*) A personality disorder that is severe enough to have repeatedly manifested itself by overt acts.

(*b*) A psychosis.

(*c*) Alcoholism, unless there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from alcohol for not less than the preceding 2 years. As used in this section, *alcoholism* means a condition in which a person's intake of alcohol is great enough to damage physical health or personal or social functioning, or when alcohol has become a prerequisite to normal functioning.

(*d*) *Drug dependence.* As used in this section, *drug dependence* means a condition in which a person is addicted to or dependent on drugs other than alcohol, tobacco, or ordinary caffeine-containing beverages, as evidenced by habitual use or a clear sense of need for the drug.

(ii) No other personality disorder, neurosis, or mental condition that the Federal Air Surgeon finds—

(*a*) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that he holds or for which he is applying; or

(*b*) May reasonably be expected, within 2 years after the finding, to make him unable to perform those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified, medical judgment relating to the condition involved.

(2) *Neurologic.* (i) No established medical history or clinical diagnosis of either of the following:

(*a*) Epilepsy.

(*b*) A disturbance of consciousness without satisfactory medical explanation of the cause.

those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified, medical judgment relating to the condition involved.

(e) *Cardiovascular.* (1) No established medical history or clinical diagnosis of—

(i) Myocardial infarction;

(ii) Angina pectoris; or

(iii) Coronary heart disease that has required treatment or, if untreated, that has been symptomatic or clinically significant.

(2) If the applicant has passed his thirty-fifth birthday but not his fortieth, he must, on the first examination after his thirty-fifth birthday, show an absence of myocardial infarction on electrocardiographic examination.

(3) If the applicant has passed his fortieth birthday, he must annually show an absence of myocardial infarction on electrocardiographic examination.

(4) Unless the adjusted maximum readings apply, the applicant's reclining blood pressure may not be more than the maximum reading for his age group in the following table:

Age group	Maximum readings (reclining blood pressure in mm)		Adjusted maximum readings (reclining blood pressure in mm)[1]	
	Systolic	Diastolic	Systolic	Diastolic
20–29 ..	140	88	.....	.....
30–39 ..	145	92	155	98
40–49 ..	155	96	165	100
50 and over	160	98	170	100

[1] For an applicant at least 30 years of age whose reclining blood pressure is more than the maximum reading for his age group and whose cardiac and kidney conditions, after complete cardiovascular examination, are found to be normal.

(5) If the applicant is at least 40 years of age, he must show a degree of circulatory efficiency that is compatible with the safe operation of aircraft at high altitudes.

or any other hypoglycemic drug for control.

(2) No other organic, functional, or structural disease, defect, or limitation that the Federal Air Surgeon finds—

(i) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that he holds or for which he is applying; or

(ii) May reasonably be expected, within two years after the finding, to make him unable to perform those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified medical judgment relating to the condition involved.

(g) An applicant who does not meet the provisions of paragraphs (b) through (f) of this section may apply for the discretionary issuance of a certificate under § 67.19.

(Amdt. 67–3, Eff. 11/23/65); (Amdt. 67–9, Eff. 4/26/72); (Amdt. 67–10, Eff. 12/21/76); (Amdt. 67–11, Eff. 5/17/82)

§ 67.15 Second-class medical certificate.

(a) To be eligible for a second-class medical certificate, an applicant must meet the requirements of paragraphs (b) through (f) of this section.

(b) Eye:

(1) Distant visual acuity of 20/20 or better in each eye separately, without correction; or of at least 20/100 in each eye separately corrected to 20/20 or better with corrective lenses (glasses or contact lenses), in which case the applicant may be qualified only on the condition that he wears those corrective lenses while exercising the privileges of his airman certificate.

(2) Enough accommodation to pass a test prescribed by the Administrator based primarily on ability to read official aeronautical maps.

(3) Normal fields of vision.

(4) No pathology of the eye.

(5) Ability to distinguish aviation signal red, aviation signal green, and white.

exceeded, the Federal Air Surgeon may require the applicant to be examined by a qualified eye specialist to determine if there is bifoveal fixation and adequate vergencephoria relationship. However, if the applicant is otherwise qualified, he is entitled to a medical certificate pending the results of the examination.

(c) Ear, nose, throat, and equilibrium:

(1) Ability to hear the whispered voice at 8 feet with each ear separately.

(2) No acute or chronic disease of the middle or internal ear.

(3) No disease of the mastoid.

(4) No unhealed (unclosed) perforation of the eardrum.

(5) No disease or malformation of the nose or throat that might interfere with or be aggravated by, flying.

(6) No disturbance in equilibrium.

(d) *Mental and neurologic*—(1) *Mental.* (i) No established medical history or clinical diagnosis of any of the following:

(*a*) A personality disorder that is severe enough to have repeatedly manifested itself by overt acts.

(*b*) *A psychosis.*

(*c*) Alcoholism, unless there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from alcohol for not less than the preceding 2 years. As used in this section, *alcoholism* means a condition in which a person's intake of alcohol is great enough to damage physical health or personal or social functioning, or when alcohol has become a prerequisite to normal functioning.

(*d*) *Drug dependence.* As used in this section, *drug dependence* means a condition in which a person is addicted to or dependent on drugs other than alcohol, tobacco, or ordinary caffeine-containing beverages, as evidenced by habitual use or a clear sense of need for the drug.

(ii) No other personality disorder, neurosis, or mental condition that the Federal Air Surgeon finds—

(*a*) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman

(2) *Neurologic.* (i) No established medical history or clinical diagnosis of either of the following:

(*a*) Epilepsy.

(*b*) A disturbance of consciousness without satisfactory medical explanation of the cause.

(ii) No other convulsive disorder, disturbance of consciousness, or neurologic condition that the Federal Air Surgeon finds—

(*a*) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that he holds or for which he is applying; or

(*b*) May reasonably be expected, within two years after the finding, to make him unable to perform those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified, medical judgment relating to the condition involved.

(e) *Cardiovascular.* (1) No established medical history or clinical diagnosis of—

(i) Myocardial infarction;

(ii) Angina pectoris; or

(iii) Coronary heart disease that has required treatment or, if untreated, that has been symptomatic or clinically significant.

(f) *General medical condition:*

(1) No established medical history or clinical diagnosis of diabetes mellitus that requires insulin or any other hypoglycemic drug for control.

(2) No other organic, functional, or structural disease, defect, or limitation that the Federal Air Surgeon finds—

(i) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that he holds or for which he is applying; or

(ii) May reasonably be expected, within two years after the finding to make him unable to perform those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified, medical judgment relating to the condition involved.

(a) To be eligible for a third-class medical certificate, an applicant must meet the requirements of paragraphs (b) through (f) of this section.

(b) Eye:

(1) Distant visual acuity of 20/50 or better in each eye separately, without correction; or if the vision in either or both eyes is poorer than 20/50 and is corrected to 20/30 or better in each eye with corrective lenses (glasses or contact lenses), the applicant may be qualified on the condition that he wears those corrective lenses while exercising the priviledges of his airman certificate.

(2) No serious pathology of the eye.

(3) Ability to distinguish aviation signal red, aviation signal green, and white.

(c) Ears, nose, throat, and equilibrium:

(1) Ability to hear the whispered voice at 3 feet.

(2) No acute or chronic disease of the internal ear.

(3) No disease or malformation of the nose or throat that might interfere with, or be aggravated by, flying.

(4) No disturbance in equilibrium.

(d) *Mental and neurologic*—(1) *Mental.* (i) No established medical history or clinical diagnosis of any of the following:

(*a*) A personality disorder that is severe enough to have repeatedly manifested itself by overt acts.

(*b*) A psychosis.

(*c*) Alcoholism, unless there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from alcohol for not less than the preceding 2 years. As used in this section, *alcoholism* means a condition in which a person's intake of alcohol is great enough to damage physical health or personal or social functioning, or when alcohol has become a prerequisite to normal functioning.

(*d*) *Drug dependence.* As used in this section, *drug dependence* means a condition in which a person is addicted to or dependent on drugs other than alcohol, tobacco, or ordinary caffeine-contain-

(*b*) May reasonably be expected, within 2 years after the finding, to make him unable to perform those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified, medical judgment relating to the condition involved.

(2) *Neurologic.* (i) No established medical history or clinical diagnosis of either of the following:

(*a*) Epilepsy.

(*b*) A disturbance of consciousness without satisfactory medical explanation of the cause.

(ii) No other convulsive disorder, disturbance of consciousness, or neurologic condition that the Federal Air Surgeon finds—

(*a*) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that he holds or for which he is applying; or

(*b*) May reasonably be expected, within 2 years after the finding, to make him unable to perform those duties or exercise those privileges; and the findings are based on the case history and appropriate, qualified, medical judgment relating to the condition involved.

(e) *Cardiovascular.* (1) No established medical history or clinical diagnosis of—

(i) Myocardial infarction;

(ii) Angina pectoris; or

(iii) Coronary heart disease that has required treatment or, if untreated, that has been symptomatic or clinically significant.

(f) *General medical condition:*

(1) No established medical history or clinical diagnosis of diabetes mellitus that requires insulin or any other hypoglycemic drug for control;

(2) No other organic, functional or structural disease, defect, or limitation that the Federal Air Surgeon finds—

(i) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that he holds or for which he is applying; or

sions of paragraphs (b) through (f) of this section may apply for the discretionary issuance of a certificate under § 67.19.

(Amdt. 67–9, Eff. 4/26/72); (Amdt. 67–10, Eff.12/21/76); (Amdt. 67–11, Eff. 5/17/82)

§ 67.19 Special issue of medical certificates.

(a) At the discretion of the Federal Air Surgeon, a medical certificate may be issued to an applicant who does not meet the applicable provisions of §§ 67.13, 67.15, or § 67.17 if the applicant shows to the satisfaction of the Federal Air Surgeon that the duties authorized by the class of medical certificate applied for can be performed without endangering air commerce during the period in which the certificate would be in force. The Federal Air Surgeon may authorize a special medical flight test, practical test, or medical evaluation for this purpose.

(b) The Federal Air Surgeon may consider the applicant's operational experience and any medical facts that may affect the ability of the applicant to perform airman duties including:

(1) The combined effect on the applicant of failure to meet more than one requirement of this part; and

(2) The prognosis derived from professional consideration of all available information regarding the airman.

(c) In determining whether the special issuance of a third-class medical certificate should be made to an applicant, the Federal Air Surgeon considers the freedom of an airman, exercising the privileges of a private pilot certificate, to accept reasonable risks to his or her person and property that are not acceptable in the exercise of commercial or airline transport privileges, and, at the same time, considers the need to protect the public safety of persons and property in other aircraft and on the ground.

(d) In issuing a medical certificate under this section, the Federal Air Surgeon may do any or all of the following:

(1) Limit the duration of the certificate.

Flight Standards Service or the Director's designee.

(e) An applicant who has been issued a medical certificate under this section based on a special medical flight or practical test need not take the test again during later physical examinations unless the Federal Air Surgeon determines that the physical deficiency has become enough more pronounced to require another special medical flight or practical test.

(f) The authority of the Federal Air Surgeon under this section is also exercised by the Manager, Aeromedical Certification Branch, Civil Aeromedical Institute, and each Regional Flight Surgeon.

(Amdt. 67–2, Eff. 10/21/65); (Amdt. 67–4, Eff. 3/31/66); (Amdt. 67–6, Eff. 6/22/68); (Amdt. 67–9, Eff. 4/26/72); (Amdt. 67–11, Eff. 5/17/82); (Amdt. 67–13, 10/25/89)

to be kept, made, or used, to show compliance with any requirement for any medical certificate under this part;

(3) Any reproduction, for fraudulent purpose, of any medical certificate under this part;

(4) Any alteration of any medical certificate under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for suspending or revoking any airman, ground instructor, or medical certificate or rating held by that person.

(Amdt. 67–1, Eff. 3/20/65)

Any interested person may obtain a list of these aviation medical examiners, in any area, from the FAA Regional Administrator of the region in which the areas is located.

(b) *Second class and third class.* Any aviation medical examiner may give the examination for the second or third class certificate. Any interested person may obtain a list of aviation medical examiners, in any area, from the FAA Regional Administrator of the region in which the area is located.

(Amdt. 67–8, Eff. 9/4/70); (Amdt. 67–13, Eff. 10/25/89)

§67.25 Delegation of authority.

(a) The authority of the Administrator, under section 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1422), to issue or deny medical certificates is delegated to the Federal Air Surgeon, to the extent necessary to—

(1) Examine applicants for and holders of medical certificates for compliance with applicable medical standards; and

(2) Issue, renew, or deny medical certificates to applicants and holders based upon compliance or noncompliance with applicable medical standards.

Subject to limitations in this chapter, the authority delegated in paragraphs (a)(1) and (2) of this section is also delegated to aviation medical examiners and to authorized representatives of the Federal Air Surgeon within the FAA.

(b) The authority of the Administrator, under subsection 314(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1355(b)), to reconsider the action of Federal Air Surgeon. A certificate issued by an aviation medical examiner is considered to be affirmed as issued unless an FAA official named in this paragraph on his own initiative reverses that issuance within 60 days after the date of issuance. However, if within 60 days after the date of issuance that official requests the certificate holder to submit additional medical information, he may on his own initiative reverse the issuance within 60 days after he receives the requested information.

(c) The authority of the Administrator, under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429), to re-examine any civil airman, to the extent necessary to determine an airman's qualification to continue to hold an airman medical certificate, is delegated to the Federal Air Surgeon and his authorized representatives within the FAA.

(Amdt. 67–5, Eff. 7/16/66); (Amdt. 67–7, Eff. 2/8/69); (Amdt. 67–9, Eff. 4/26/72); (Amdt. 67–11, Eff. 5/17/82); (Amdt. 67–13, Eff. 10/25/89)

§67.27 Denial of medical certificate.

(a) Any person who is denied a medical certificate by an aviation medical examiner may, within 30 days after the date of the denial, apply in writing and in duplicate to the Federal Air Surgeon, Attention: Manager, Aeromedical Certification Division, Federal Aviation Administration, Post Office Box 25082, Oklahoma City, OK 73125, for reconsideration of that denial. If he does not apply for reconsideration during the 30-day period after the date of the denial, he is considered to have withdrawn his application for a medical certificate.

(b) The denial of a medical certificate—

(1) By an aviation medical examiner is not a denial by the Administrator under section 602

does not meet the standards of § 67.13(d)(1)(ii), (d)(2)(ii), or (f)(2), § 67.15(d)(1)(ii), (d)(2)(ii), or (f)(2), or § 67.17(d)(1)(ii), (d)(2)(ii), or (f)(2).

(c) Any action taken under § 67.25(b) that wholly or partly reverses the issue of a medical certificate by an aviation medical examiner is the denial of a medical certificate under paragraph (b) of this section.

(d) If the issue of a medical certificate is wholly or partly reversed upon reconsideration by the Federal Air Surgeon, the Manager, Aeromedical Certification Division, AAM–300, or a Regional Flight Surgeon, the person holding that certificate shall surrender it, upon request of the FAA.

(Amdt. 67–5, Eff. 7/16/66); (Amdt. 67–9, Eff. 4/26/72); (Amdt. 67–11, Eff. 5/17/82); (Amdt. 67–13, Eff. 10/25/89)

§ 67.29 Medical certificates by senior flight surgeons of armed forces.

(a) The FAA has designated senior flight surgeons of the armed forces on specified military posts, stations, and facilities, as aviation medical examiners.

(b) An aviation medical examiner described in paragraph (a) of this section may give physical examinations to applicants for FAA medical certifi- a senior flight surgeon has been designated as an aviation medical examiner, from the Surgeon General of the armed force concerned or from the Manager, Aeromedical Certification Division, AAM–300, Department of Transportation, Federal Aviation Administration, Civil Aeromedical Institute, Post Office Box 25082, Oklahoma City, OK 73125.

(Amdt. 67–8, Eff. 9/4/70); (Amdt. 67–13, Eff. 10/25/89)

§ 67.31 Medical records.

Whenever the Administrator finds that additional medical information or history is necessary to determine whether an applicant for or the holder of a medical certificate meets the medical standards for it, he requests that person to furnish that information or authorize any clinic, hospital, doctor, or other person to release to the Administrator any available information or records concerning that history. If the applicant, or holder, refuses to provide the requested medical information or history or to authorize the release so requested, the Administrator may suspend, modify, or revoke any medical certificate that he holds or may, in the case of an applicant, refuse to issue a medical certificate to him.

(Amdt. 67–5, Eff. 7/16/66)

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